

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

SEAN K. DONOGHUE,

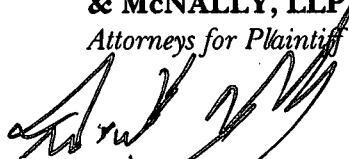
-----X *Index No.*
*Date Filed*Plaintiff,
- against -*Plaintiff designates Nassau County
as the place of trial. The basis of
the venue is plaintiff's residence.*DIOCESE OF ROCKVILLE CENTRE;
CHURCH OF ST. ANTHONY OF PADUA,
East Northport; CHURCH OF THE GOOD SHEPHERD,
Holbrook; CHURCH OF ST. ANNE, Garden City and
NOTRE DAME CHURCH, New Hyde Park,**SUMMONS**

Defendants.

-----X

You are hereby summoned to answer the Complaint in this action and to serve a copy of your Answer, or, if the Complaint is not served with this Summons, to serve a notice of appearance, on the Plaintiff's Attorneys within 20 days after the service of this Summons, exclusive of the day of service (or within 30 days after the service is complete if this Summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

Dated: August 8, 2019

*Defendants' Addresses:***DIOCESE OF ROCKVILLE CENTRE**
50 North Park Avenue
Rockville Centre, NY 11571**CHURCH OF ST. ANTHONY OF PADUA**
20 Cheshire Place
East Northport, NY 11731**CHURCH OF THE GOOD SHEPHERD**
1370 Grundy Avenue
Holbrook, NY 11741**CHURCH OF ST. ANNE**
35 Dartmouth Street
Garden City, NY 11530**NOTRE DAME CHURCH**
45 Mayfair Road
New Hyde Park, NY 11040**HAMBURGER, MAXSON, YAFFE
& McNALLY, LLP***Attorneys for Plaintiff*By: 

David N. Yaffe, Esq.
225 Broadhollow Road, Suite 301E
Melville, New York 11747
631.694.2400

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

-----X

SEAN K. DONOGHUE,

Plaintiff,

VERIFIED
COMPLAINT

- against -

Index No.

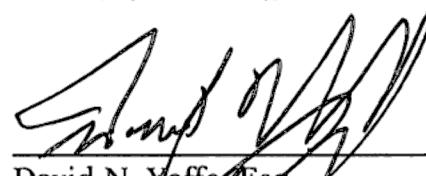
DIOCESE OF ROCKVILLE CENTRE;
CHURCH OF ST. ANTHONY OF PADUA,
East Northport; CHURCH OF THE GOOD SHEPHERD,
Holbrook; CHURCH OF ST. ANNE, Garden City and
NOTRE DAME CHURCH, New Hyde Park,

Defendants.

-----X

Dated: Melville, New York
August 8, 2019

**HAMBURGER, MAXSON, YAFFE
& McNALLY, LLP**
Attorneys for Plaintiff



David N. Yaffe, Esq.
Douglas K. McNally, Esq.
Richard Hamburger, Esq.
225 Broadhollow Road, Suite 301E
Melville, New York 11747
631.694.2400

TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION	1
II. PARTIES	7
A. Plaintiff Sean K. Donoghue	7
B. Defendant Diocese of Rockville Centre	7
C. Defendant Church of St. Anthony of Padua	8
D. Defendant Church of the Good Shepherd	9
E. Defendant Church of St. Anne	10
F. Defendant Notre Dame Church	11
III. CANON LAW AND THE GOVERNING STRUCTURE, RULES, NORMS AND STANDARDS OF CONDUCT IN THE DEFENDANT DIOCESE AND PARISHES	12
IV. SEMINARY EDUCATION, ORDINATION AND INCARDINATION OF FATHER BRIAN McKEON IN THE DIOCESE - 1970 TO 1977	20
V. FATHER BRIAN'S FIRST ASSIGNMENT AS A PRIEST OF THE DIOCESE AT ST. ANTHONY'S, APRIL 1977 THROUGH JANUARY 1982, AND HIS REPORTED AND KNOWN ALCOHOL AND SEXUAL ABUSE AND MOLESTATION OF MINOR MALE CHILDREN	23
A. Lack of Appropriate Review and Oversight of Father Brian by the Diocese and St. Anthony's, and Lack of Proper Training of St. Anthony's Pastor	23
B. Lack of Appropriate Oversight of Father Brian in Connection with his Activities with Minor Children of Parishioners and the Resulting Sexual Assaults and Abuse	25

Page

C.	1978 Report by Child to the Pastor of St. Anthony's That Father Brian had Sexually Assaulted and Abused Him	28
D.	Father Donnelly's Grand Jury Testimony and His Public Admission of Wrongdoing Regarding His Failure to Act with Respect to Father Brian	31
VI.	FATHER BRIAN'S TRANSFER TO GOOD SHEPHERD CHURCH, HIS SECOND ASSIGNMENT AS A PRIEST OF THE DIOCESE, FROM JANUARY 1982 THROUGH JUNE 1990, AND HIS REPORTED AND KNOWN ALCOHOL AND SEXUAL ABUSE AND MOLESTATION OF MINOR MALE CHILDREN	34
A.	Lack of Appropriate Review and Oversight of Father Brian by Diocese and Good Shepherd, and Lack of Proper Training of Good Shepherd's Pastor	34
B.	Lack of Appropriate Oversight of Father Brian in Connection with his Activities with Minor Children at Good Shepherd and the Resulting Sexual Assaults and Abuse	37
C.	1988 Report by Father Seagriff to Pastor of Good Shepherd that Father Brian was Inappropriately Bringing Minor Male Children to his Living Quarters in the Rectory	40
D.	Father Seagriff's 1986 Report to the Bishop and the Vice Chancellor of the Sexual Abuse and Assault of Children by another Member of the Clergy of the Diocese, and Their Failure and Refusal to Appropriately Investigate and Act	43
E.	Good Shepherd Parishioners' Report to the Diocese That Father Brian was Providing Their Children With Alcohol, and the Diocese's Failure and Refusal to Appropriately Investigate and Act	46
F.	Grand Jury Testimony Provided by Father Seagriff Regarding his Reports to the Good Shepherd Pastor of Father Brian's Inappropriate Behavior with Minor Male Children, and Related Grand Jury Findings	48

Page

VII. FATHER BRIAN'S TRANSFER BY THE DIOCESE TO HIS THIRD ASSIGNMENT, ST. ANNE'S CHURCH, COMMENCING JUNE 20, 1990, AND HIS REPEATED SEXUAL ASSAULTS UPON PLAINTIFF SEAN K. DONOGHUE STARTING SEVERAL MONTHS LATER	50
A. Lack of Appropriate Oversight of Father Brian by Diocese and St. Anne's, and Lack of Proper Training of St. Anne's Pastor	50
B. Lack of Appropriate Oversight of Father Brian in Connection with his Activities with Minor Children at St. Anne's and Resulting Sexual Abuse	53
C. The Sexual Assaults and Attacks Upon Sean	55
i. The First Sexual Assault	58
ii. The Second and Third Sexual Assaults	61
iii. The Fourth Sexual Assault	66
iv. The Fifth Sexual Assault	67
VIII. ADDITIONAL ALLEGATIONS REGARDING THE DIOCESE AND FATHER BRIAN	71
A. The Diocese's Prior Knowledge of Widespread Sexual Abuse of Children by Priests	71
B. Efforts by the Diocese to Cover-Up Sexual Abuse of Children by Priests, Including Father Brian	73
C. Psychiatric Evaluation of Father Brian - Twenty Years Too Late	77
IX. GRAND JURY REPORT FINDINGS AND RECOMMENDATIONS	79
X. DIOCESE LOBBYING EFFORT OPPOSING ENACTMENT OF CHILD VICTIMS ACT AND ESTABLISHMENT OF IRCP PROGRAM	81

Page

XI. THE DIOCESE'S PROVISION OF FINANCIAL ASSISTANCE TO SEAN AS AN ACKNOWLEDGED VICTIM OF CLERGY SEXUAL ABUSE	83
CAUSE OF ACTION AS AGAINST DEFENDANTS	84

Plaintiff, by his attorneys, Hamburger, Maxson, Yaffe & McNally, LLP, complaining of the defendants, alleges:

I. INTRODUCTION

1. Plaintiff Sean K. Donoghue (referred to herein as "Sean" or "Plaintiff") brings this action by virtue of the Child Victims Act, signed into law in February 2019, which extended the statute of limitations from age 23 to age 55 for victims of child sexual abuse and enabled such victims to sue their perpetrators and any party whose intentional or negligent acts or omissions are alleged to have resulted in the commission of such conduct.

2. Sean here seeks compensatory and punitive damages against the defendant religious institutions for their heinous and despicable acts of negligently hiring, enabling, retaining and failing to supervise Brian McKean ("Father Brian") (now deceased), a priest who was trained, ordained, incardinated, employed, authorized and assigned by the Diocese of Rockville Centre ("Diocese") to perform sacred ministerial functions and to exercise pastoral care and authority over Catholic parishioners and their minor children at several parishes of the Diocese.

3. Father Brian (as he had parishioners refer to him, instead of "Father McKeon"), at all times hereinafter alleged, was a sexual predator who, during the more than thirteen (13) year period *prior* to his violent and repeated sexual assaults upon 12-year-old Sean in the Fall of 1990, molested, groped, fondled, assaulted, orally sodomized,

raped and anally sodomized numerous other minor male children of parishioners of the defendant Diocese and parishes.

4. During the lengthy time period prior to Father Brian's sexual assaults upon Sean, defendants knew or had reason to know, among other things, that Father Brian was engaging in and had a propensity to engage in inappropriate sexual conduct with children, that he was bringing minor male children of parishioners back to his living quarters in the rectories of the parishes where he lived, that he was showing them pornographic films, that he was getting them drunk, and that he was having them spend the night with him. Yet defendants did nothing to investigate, report, supervise, remove or otherwise stop Father Brian.

5. Prior to the sexual assaults upon Sean in 1990, defendants knew or had reason to know that other children had, as early as 1978, reported to the Diocese that Father Brian had been sexually assaulting them. Yet defendants did nothing to investigate, report, supervise, remove or otherwise stop him.

6. Upon information and belief, prior to his assaults upon Sean, Father Brian admitted the veracity of such complaints to senior officials of the Diocese. Yet defendants did nothing to investigate, report, supervise, remove or otherwise stop him.

7. Prior to the sexual assaults upon Sean, defendants knew or had reason to know that other priests and clergy had reported to the Diocese that Father Brian had been engaging in inappropriate behavior with minor male children – specifically, providing them alcohol and getting them drunk, and having them come to

his living quarters at the rectory to spend the night with him. Yet defendants did nothing to investigate, report, supervise, remove or otherwise stop him.

8. Defendants had knowledge and notice of Father Brian's history of inappropriate and illegal conduct and sexual engagement with male children while he was engaged in both official duties as a Catholic priest and during his non-working hours on church grounds and on outings, such that his repeated sexual assaults upon Sean could reasonably have been anticipated and prevented well before they occurred.

9. Upon information and belief, prior to Father Brian's assaults upon Sean, defendants did not properly assess his suitability to serve as a Catholic priest, determine whether he had a predisposition toward sexual contact with children, perform appropriate background checks and other assessments of him, investigate or make inquiry into allegations of his sexual abuses of, and inappropriate behavior with, children, report him to governmental authorities, report him to parishioners, report him to parishes where he was performing ministerial functions, restrict his activities as a priest, supervise him with respect to his interactions with children, or otherwise remove or restrain him from his position of authority in, and as agent, servant and employee of, the Diocese.

10. Instead, with little or no oversight, defendants intentionally ignored and turned a blind eye to Father Brian's daily behaviors and his ongoing crimes and sexual assaults of children as he was moved by the Diocese from parish to parish within the Diocese, to his ultimate assignment where he viciously attacked and repeatedly sexually assaulted Sean.

11. Defendants were more concerned with avoiding publicity of Father Brian's abuses and assaults, than they were with protecting and helping the innocent children and families whose lives he shattered.

12. Defendants failed to properly assess and gauge Father Brian's qualifications, negligently hired, and negligently retained, trained and supervised Father Brian, thereby enabling, rather than preventing, his sexual assaults upon children, including Sean.

13. Such failures were undertaken in a willful and/or grossly negligent and reckless manner, in direct violation, among other things, of civil law and the Code of Canon Law ("Canon Law"), all of which demonstrate defendants' conscious indifference and utter disregard for the safety and rights of Sean and others.

14. Father Brian's prior abuses and assaults of minor male children repeatedly occurred, were repeatedly reported, repeatedly confirmed, and repeatedly ignored by Church officials at each parish of the Diocese where Father Brian was assigned, long before the Diocese assigned him to defendant Church of St. Anne ("St. Anne's").

15. Within a few short months of the Diocese's June 20, 1990 assignment of Father Brian to St. Anne's, he began inflicting his horrific sexual assaults and abuses upon Sean.

16. By June of 1990, having been emboldened by more than 13 years of inflicting sexual abuse upon other minor male children at each of his prior parish assignments, and without experiencing any restraint, punishment, treatment or any effort

by the Diocese and its pastors to stop or report him, Father Brian was given free license by defendants to unleash, with abandon, his sexual assaults and abuses upon Sean.

17. As a direct and foreseeable result of defendants' failures, the first time Father Brian met Sean during Father Brian's officiating as a "visiting" priest at a wedding mass at defendant Notre Dame Church ("Notre Dame"), and within moments of getting him alone at the conclusion of the mass, Father Brian sexually assaulted and molested then 12-year-old altar boy Sean in the sacristy of Notre Dame.

18. Within days of that first assault, following a morning mass at Notre Dame in which Sean had been again serving as an altar boy and Father Brian had again been celebrating as a "visiting" priest, Father Brian, in two separate assaults forced Sean into the back seat of Father Brian's car, drove him to a secluded location, and proceeded to repeatedly sexually molest, orally sodomize, anally sodomize and rape Sean.

19. Within days of these second and third assaults, Father Brian accosted Sean outside of Notre Dame, where Sean was playing in the afternoon before a 5:00 p.m. mass, forced Sean into his car, drove him to a secluded location and orally sodomized and ejaculated into Sean's mouth.

20. Within days of this fourth assault, following another mass at Notre Dame, Father Brian brought Sean to his living quarters in the rectory at St. Anne's and repeatedly orally and anally sodomized and raped Sean, ejaculated in Sean's mouth and anus and on his face, and choked Sean with his hands.

21. On that last occasion, the fifth assault involving multiple acts of sexual abuse that lasted for hours, when an injured, terror stricken, bleeding and tearful

Sean tried to escape from Father Brian's bedroom at St. Anne's, Father Brian used what felt to Sean like a leash around his neck to pull him back to Father Brian's bed where he again sexually assaulted him.

22. After each sexual assault, Father Brian threatened Sean with severe and holy retribution if Sean spoke of these assaults to anyone.

23. As detailed in this complaint, each of the defendants failed to fulfill and carry out their responsibilities, obligations and the standards of conduct and care they owed to Sean, as set forth, among other things, in the civil law, the provisions of the Code of Canon Law, the Bible, sacred scripture, the Diocesan Priest Personnel Manual and the Diocesan Pastor Personnel Manual. As a direct and foreseeable result of each such failure, Sean sustained the serious and permanent injuries and damages alleged herein.

24. As a direct and foreseeable result of defendants' negligent, reckless and wanton conduct, their failures to act, and the resulting violent sexual assaults and abuses suffered by Sean at the hands of Father Brian, Sean, a happy, promising, trusting, highly intelligent, young devout Catholic child, loved by his family and with a bright future ahead of him, was left permanently physically injured, emotionally shattered, traumatized, terrified, haunted and ashamed, with his faith and love of the Church and its leaders destroyed.

25. As a direct and foreseeable result of defendants' negligent, reckless and wanton conduct, their failures to act, and the resulting violent sexual assaults and abuses inflicted by Father Brian, Sean suffered more than 28 years of acute physical and

emotional injury and distress exemplified, among other things, by persistent psychological trauma and stress, multiple suicide attempts, multiple hospital stays, repeated terrifying nightmares, lost educational opportunities, lost income, lost jobs, lost employment opportunities, destroyed relationships, debilitating alcoholism, drunk driving arrests and drug abuse.

26. Upon information and belief, Father Brian died in or about April 2009 in Florida, without any assets and without an estate representative having been appointed.

II. PARTIES**A. Plaintiff Sean K. Donoghue**

27. Plaintiff Sean K. Donoghue is and was at all times relevant hereto a resident of Nassau County, State of New York.

28. Sean was born on [REDACTED].

B. Defendant Diocese of Rockville Centre

29. Upon information and belief, at all times relevant hereto, defendant Diocese of Rockville Centre ("Diocese") is and was a religious corporation duly organized and existing under and by virtue of the laws of the State of New York, with a principal place of business located at 50 North Park Avenue, Rockville Centre, New York.

30. Upon information and belief, the Diocese constitutes the Roman Catholic Church (“Church”) on Long Island, and is engaged in conducting the business of the Diocese within the New York State Counties of Nassau and Suffolk.

31. Upon information and belief, the Diocese is comprised of, and operates and controls, more than 130 parishes on Long Island, including the defendant parishes.

C. Defendant Church of St. Anthony of Padua

32. Upon information and belief, at all times relevant hereto, Defendant Church of St. Anthony of Padua (“St. Anthony’s”) was a parish of the Diocese and a religious corporation duly organized and existing under and by virtue of the laws of the State of New York, with a principal place of business at 20 Cheshire Place, East Northport, New York.

33. Upon information and belief, at all times relevant hereto, St. Anthony’s operated within the Diocese, under its control and for its benefit.

34. Upon information and belief, at all times relevant hereto, St. Anthony’s held its pastors and other priests out to the public and its parishioners as agents, servants and employees of St. Anthony’s and the Diocese.

35. Upon information and belief, at all times relevant hereto, St. Anthony’s managed, maintained, owned (or leased from the Diocese) and controlled the grounds and all facilities where St. Anthony’s is located, including, but not limited to, the church buildings and the rectory in which it housed its clergy.

36. Upon information and belief, at all relevant times hereto, St. Anthony's was responsible for overseeing, training and instructing its clergy and visiting clergy with respect to, among other things, their interactions and treatment of children of parishioners.

D. Defendant Church of the Good Shepherd

37. Upon information and belief, at all times relevant hereto, Defendant Church of the Good Shepherd ("Good Shepherd") was a parish of the Diocese and a religious corporation duly organized and existing under and by virtue of the laws of the State of New York, with a principal place of business at 1370 Grundy Avenue, Holbrook, New York.

38. Upon information and belief, at all times relevant hereto, Good Shepherd held its pastors and other priests out to the public and its parishioners as agents, servants and employees of Good Shepherd and the Diocese.

39. Upon information and belief, at all times relevant hereto, Good Shepherd managed, maintained, owned (or leased from the Diocese) and controlled the grounds and all facilities where Good Shepherd is located, including, but not limited to, the church buildings and the rectory in which it housed its clergy.

40. Upon information and belief, at all relevant times hereto, Good Shepherd was responsible for overseeing, training and instructing its clergy and visiting clergy with respect, among other things, to their interactions and treatment of children of parishioners.

E. Defendant Church of St. Anne

41. Upon information and belief, at all times relevant hereto, Defendant Church of St. Anne ("St. Anne's") was a parish of the Diocese and a religious corporation duly organized and existing under and by virtue of the laws of the State of New York, with a principal place of business at 35 Dartmouth Street, Garden City, New York.

42. Upon information and belief, at all times relevant hereto, St. Anne's held its pastors and other priests out to the public and its parishioners as agents, servants and employees of St. Anne's and the Diocese.

43. Upon information and belief, at all times relevant hereto, St. Anne's managed, maintained, owned and controlled the grounds and all facilities where St. Anne's is located, including, but not limited to, the church buildings and the rectory in which it housed its clergy.

44. Upon information and belief, at all relevant times hereto, St. Anne's was responsible for overseeing, training and instructing its clergy and visiting clergy with respect, among other things, to their interactions and treatment of children of parishioners.

45. Upon information and belief, at all relevant times hereto, St. Anne's was responsible for the appropriate treatment by its clergy and visiting clergy of children functioning as altar boys.

F. Defendant Notre Dame Church

46. Upon information and belief, at all times relevant hereto, Defendant Notre Dame Church (“Notre Dame”) was a parish of the Diocese and a religious corporation duly organized and existing under and by virtue of the laws of the State of New York, with a principal place of business at 45 Mayfair Road, New Hyde Park, New York.

47. Upon information and belief, at all times relevant hereto, Notre Dame held its pastors and other priests out to the public and its parishioners as agents, servants and employees of Notre Dame and the Diocese.

48. Upon information and belief, at all times relevant hereto, Notre Dame managed, maintained, owned (or leased from the Diocese) and controlled the grounds and all facilities where Notre Dame is located, including, but not limited to, the church buildings and the rectory in which it housed its clergy.

49. Upon information and belief, at all relevant times hereto, Notre Dame was responsible for overseeing, training and instructing its clergy and visiting clergy with respect, among other things, to their interactions and treatment of children of parishioners.

50. Upon information and belief, at all relevant times hereto, Notre Dame was responsible for the appropriate treatment by its clergy and visiting clergy of children functioning as altar boys.

III. CANON LAW AND THE GOVERNING STRUCTURE, RULES, NORMS AND STANDARDS OF CONDUCT IN THE DEFENDANT DIOCESE AND PARISHES

51. Upon information and belief, the Code of Canon Law (“Canon Law”) is the principal legislative and organizational document for the Roman Catholic Church (the “Church”) and the Diocese.

52. Upon information and belief, the Canon Law is the universal law of the Church.

53. Upon information and belief, among the purposes of the Canon Law is the setting of rules, norms and standards of conduct for the clergy of the Diocese to follow in their individual and social lives, and in their business, religious and ministerial activities.

54. Upon information and belief, among other things, the Canon Law sets forth rules and norms of behavior applicable to the bishop and to all clergy assigned by the Diocese to parishes within the Diocese.

55. Upon information and belief, pursuant to the Canon Law, the bishop of the Diocese rules the Diocese and its clergy with legislative, executive and judicial power in accord with the norms of law (*see*, Canon Law 391).

56. Upon information and belief, at all times relevant hereto, the bishop of the Diocese was bound to promote discipline and to require observance of all ecclesiastical laws by clerics of the Diocese (*see*, Canon Law 392).

57. Upon information and belief, at all times relevant hereto, the bishop of the Diocese was a member of the five-member governing board of each parish in the Diocese, whose other members were the vicar general (appointed by the bishop), the pastor of the parish (appointed by the bishop) and two laypersons.

58. Upon information and belief, at all times relevant hereto, each parish of the Diocese was headed by a pastor who was designated and assigned by the bishop of the Diocese to head such parish.

59. Upon information and belief, at all times relevant hereto, the pastor of each parish functioned as the appointed representative of the bishop of the Diocese and acted in his place and stead within the parish (*see, e.g.*, Canon Law 515).

60. Upon information and belief, at all times relevant hereto, “[t]he pastor [was] the proper shepherd of the parish entrusted to him, exercising pastoral care in the community entrusted to him under the authority of the diocesan bishop in whose ministry of Christ he has been called to share” (Canon Law 519).

61. Upon information and belief, at all times relevant hereto, all pastors of the Diocese were required to live by rules of conduct, guided, among other things, by the Bible, sacred scripture, the Canon Law and a Diocesan Pastor Personnel Manual.

62. Upon information and belief, at all times relevant hereto, such pastors were required “to endeavor that [the faithful] are brought to the practice of family prayer as well as to a knowing and active participation in the sacred liturgy, which the pastor must supervise in his parish under the authority of the diocesan bishop, being vigilant lest any abuses creep in” (Canon Law 528, § 2).

63. Upon information and belief, at all times relevant hereto, each such pastor was expected to “strive to come to know the faithful who have been entrusted to his care” and “therefore he is to visit families” (Canon Law 529, § 1).

64. Upon information and belief, at all times relevant hereto, each such pastor functioned as the effective leader of the parish, and, depending on the size of the parish, any number of priests (also known as associate priests or parochial vicars) were assigned by the Diocese to assist the pastor.

65. Upon information and belief, at all times relevant hereto, the pastor of each parish was, among other things, the immediate supervisor of each priest assigned by the Diocese to the parish.

66. Upon information and belief, each parish has a rectory, which serves as the living quarters for each priest of the parish.

67. Upon information and belief, the operation of the rectory is subject to the supervision of the parish pastor and every priest who lives in the rectory is required to use and occupy such rectory in strict compliance with the Bible, sacred scripture, the Canon Law and the Diocesan Priest Personnel Manual.

68. Upon information and belief, at all times relevant hereto, all priests in the parish owed their obedience to the pastor.

69. Upon information and belief, at all times relevant hereto, all priests of the Diocese were required to live by rules of conduct, guided, among other things, by the Bible, sacred scripture, the Canon Law and the Diocesan Priest Personnel Manual.

70. Upon information and belief, at all times relevant hereto, the Diocese operated and controlled a seminary known as the Immaculate Conception Seminary in Huntington (“Seminary”), New York.

71. Upon information and belief, the Seminary was utilized by the Diocese for, among other things, the education and instruction of prospective clergy seeking to be ordained and incardinated as clerics under the jurisdiction of the Diocese.

72. Upon information and belief, at all times relevant hereto, the Diocese, through the Seminary, was responsible for the religious, moral and spiritual education of the students of the Seminary in accordance with, among other things, the teachings of the Bible, sacred scripture, the customs and norms of the Church and the Canon Law.

73. Upon information and belief, at all times relevant hereto, students educated in the Seminary were to be instructed diligently, among other things, in those matters which have a special relationship to sacred ministry, the celebration of divine worship, particularly that of the sacraments, the conducting of relationships with people and the administration of a parish (Canon Law 256).

74. Upon information and belief, at all times relevant hereto, “the diocesan bishop [was] to admit to the [Seminary] only those who are judged capable of dedicating themselves permanently to the sacred ministries in light of their human, moral, spiritual and intellectual characteristics, their physical and psychological health and their proper motivation” (Canon Law 241, § 1).

75. Upon information and belief, at all times relevant hereto, the bishop of the Diocese was required to visit the Seminary frequently in person and to watch over the formation of the students and the philosophical and theological instruction given them in the seminary (Canon Law 259, § 2).

76. Upon information and belief, at all times relevant hereto, the bishop of the Diocese was required to keep himself “informed concerning the Seminary students’ vocation, character, piety and progress, especially in view of the conferral of sacred ordination” (Canon Law 259, § 2).

77. Upon information and belief, at all times relevant hereto, the bishop of the Diocese was responsible for ensuring that “students [of the Seminary] are prepared through suitable education to observe the state of celibacy, and they are also to learn to honor it as a special gift of God” (Cannon Law 247, § 1).

78. Upon information and belief, at all times relevant hereto, the Diocese was responsible for ensuring that members of the clergy functioning within the Diocese obeyed, followed and enforced the rules and norms of behavior set forth in the Canon Law (*see*, Canon Law 392).

79. Upon information and belief, at all times relevant hereto, the Diocese held out to the public its pastors and other priests that it assigned to parishes in the Diocese as its agents, servants and employees.

80. Upon information and belief, at all times relevant hereto, a man ordained and incardinated as a cleric of the Diocese (which includes deacons, priests,

pastors and bishops of the Diocese) is and was “bound to pursue holiness and is consecrated to God in the service of His people” (*see*, Canon Law 276).

81. Upon information and belief, at all times relevant hereto, clerics of the Diocese were obliged to observe celibacy (*see*, Canon Law 277, § 1).

82. Upon information and belief, at all times relevant hereto, clerics were required to conduct themselves prudently in associating with persons whose company could endanger their obligation to observe continence or could cause scandal for the faithful (Canon Law 277, § 2).

83. Upon information and belief, at all times relevant hereto, the bishop of the Diocese was authorized to issue and enforce norms concerning the obligation of clerics of the Diocese to observe perfect and perpetual continence and celibacy and to ensure that clerics of the Diocese observed these obligations (Canon Law 277, § 3; Canon Law 247, § 1).

84. Upon information and belief, at all times relevant hereto, pursuant to the Canon Law, a cleric of the Diocese who committed an offence against the sixth commandment of the Decalogue with force or threats or publicly or with a minor below the age of 16 was required to be punished with just penalties, including dismissal from the clerical state if the case so warranted (*see*, Canon Law 1395, § 2).

85. Upon information and belief, the reference in the Canon Law to the sixth commandment of the Decalogue refers to the commandment against committing adultery.

86. Upon information and belief, at all times relevant hereto, a priest of the Diocese who sexually molested a minor below the age of 16 committed an offense against the sixth commandment of the Decalogue.

87. Upon information and belief, at all times relevant hereto, a priest of the Diocese who orally sodomized a minor below the age of 16 committed an offense against the sixth commandment of the Decalogue.

88. Upon information and belief, at all times relevant hereto, a priest of the Diocese who anally sodomized a minor below the age of 16 committed an offense against the sixth commandment of the Decalogue.

89. Upon information and belief, at all times relevant hereto, a single act of sexual abuse, assault, molestation, oral sodomy, anal sodomy or rape of a minor by a priest of the Diocese is and was a violation of the Canon Law.

90. These provisions of Canon Law imposed, among other things, certain standards of care and conduct, duties and obligations upon each of the defendants with respect to the care and protection of minors in general and, in particular, with respect to Sean.

91. Upon information and belief, at all times relevant hereto, whenever the bishop of the Diocese received information which appeared to be true regarding an offense of the Canon Law, "he shall cautiously inquire personally or through another suitable person about the facts and circumstances and about imputability unless this investigation appears to be entirely superfluous" (Canon Law 1717).

92. Upon information and belief, at all times relevant hereto, when an allegation of sexual abuse of a minor by a priest was received, the Diocese was required to promptly and objectively initiate a preliminary investigation.

93. Upon information and belief, at all times relevant hereto, under the Canon Law, when even a single act of sexual abuse of a minor by a priest was admitted by the priest, the offending priest was required to be removed from ecclesiastical ministry, not excluding dismissal from the clerical state, if the case so warranted (Canon Law 1395, § 2).

94. Upon information and belief, at all times relevant hereto, the Diocese and each parish of the Diocese was responsible for taking actions to ensure that children of parishioners of the Diocese were treated appropriately while interacting with members of its clergy and visiting clergy of the Diocese.

95. Upon information and belief, at all times relevant hereto, the Diocese and each parish of the Diocese was responsible for taking actions to ensure that children were treated appropriately when they were functioning as altar boys under the direction and supervision of pastors, priests and clergy of the Diocese.

IV. SEMINARY EDUCATION, ORDINATION AND INCARDINATION OF FATHER BRIAN McKEON IN THE DIOCESE – 1970 TO 1977

96. Upon information and belief, Father Brian McKean was born in or about 1950.

97. Upon information and belief, Father Brian was ordained and incardinated as a priest of the Diocese in or about March 1977, following his religious education at the Seminary.

98. Upon information and belief, in determining to admit Father Brian to the Seminary, the Diocese did not properly undertake to examine or assess his psychological and emotional health or make any reasonable effort to determine if he had any predisposition or urge to engage in sexual activity with children, or did so in a negligent and willful and/or grossly negligent or reckless manner.

99. Upon information and belief, in determining to admit Father Brian to the Seminary, the Diocese failed to properly perform a review of his human, moral, spiritual and intellectual characteristics and failed to properly perform an adequate assessment of his psychosocial history and background, or did so in a negligent and willful and/or grossly negligent or reckless manner.

100. Upon information and belief, the Diocese did not properly keep itself closely informed regarding Father Brian's formation as a prospective member of the clergy of the Diocese, or did so in a negligent and willful and/or grossly negligent or reckless manner.

101. Upon information and belief, the bishop of the Diocese did not properly keep himself informed concerning Father Brian's vocation, character, piety and progress while Father Brian was at the Seminary (*see*, Canon Law 259, § 2), or he did so in a negligent and willful and/or grossly negligent or reckless manner.

102. Upon information and belief, the Diocese did not properly prepare Father Brian to observe the state of celibacy, or did so in a negligent and willful and/or grossly negligent or reckless manner.

103. Upon information and belief, the Diocese knew and expected that in the performance of his duties and obligations as an ordained member of the clergy of the Diocese, Father Brian would be closely interacting with parishioner families and their minor children.

104. Upon information and belief, despite its knowledge and expectation that Father Brian would be closely interacting with parishioner families and their minor children, the Diocese failed to properly examine and assess his physical and psychological health prior to ordaining him as a priest of the Diocese, or did so in a negligent and willful and/or grossly negligent or reckless manner.

105. Upon information and belief, the Diocese failed to properly examine or assess Father Brian's morals, motivations and moral capability, prior to ordaining him as a priest of the Diocese, or did so in a negligent and willful and/or grossly negligent or reckless manner.

106. Upon information and belief, Father Brian had been arrested for driving under the influence (DUI) prior to being ordained as a priest by the Diocese.

107. Upon information and belief, the Diocese was aware or should have been aware of Father Brian's DUI arrest(s) prior to ordaining him as a priest.

108. Upon information and belief, the Diocese did not properly conduct an investigation into Father Brian's prior DUI arrest(s), or did so in a negligent and willful and/or grossly negligent or reckless manner, in that, among other things, it failed to recognize such arrest(s) as evidence of an irresponsible utilization of alcohol, a burgeoning alcohol addiction, and potentially serious emotional and mental disorders which could impact Father Brian's ability to properly perform his duties as a priest and, further, failed to require treatment as a condition of becoming or remaining a priest.

109. Upon information and belief, after it ordained, incardinated and assigned Father Brian to function as a priest at a parish of the Diocese, the Diocese failed to properly observe and supervise him in the performance of his duties and obligations throughout each assignment, or did so in a negligent and willful and/or grossly negligent or reckless manner.

110. Upon information and belief, in making each assignment of Father Brian as a priest and then a pastor of the Diocese, the Diocese failed to otherwise properly conduct any assessment or investigation of him whatsoever, or it performed such investigation in a willful and/or grossly negligent or reckless manner.

111. Upon information and belief, the Diocese did not act to protect children of parishioners of the Diocese, including Sean, from sexual assaults by Father Brian despite adequate prior notice and warnings of his propensity to engage in such

conduct, or it did so in a negligent and willful and/or grossly negligent or reckless manner.

112. As a direct and foreseeable result of the actions and failures to act of the Diocese and the defendant parishes, as alleged herein, and the resulting sexual abuse and assaults of Sean by Father Brian, Sean was permanently and severely injured.

V. FATHER BRIAN'S FIRST ASSIGNMENT AS A PRIEST OF THE DIOCESE AT ST. ANTHONY'S, APRIL 1977 THROUGH JANUARY 1982, AND HIS REPORTED AND KNOWN ALCOHOL AND SEXUAL ABUSE AND MOLESTATION OF MINOR MALE CHILDREN

A. Lack of Appropriate Review and Oversight of Father Brian by the Diocese and St. Anthony's, and Lack of Proper Training of St. Anthony's Pastor

113. Upon information and belief, promptly following his ordination and incardination as a priest of the Diocese in or about March 1977, the Diocese assigned Father Brian to serve as a priest at defendant St. Anthony's in or about April 1977.

114. Upon information and belief, St. Anthony's was Father Brian's first assignment as a priest of the Diocese.

115. Upon information and belief, as an assigned priest at St. Anthony's, Father Brian was an agent, servant and employee of St. Anthony's and the Diocese.

116. Upon information and belief, in connection with its assignment of Father Brian to St. Anthony's, the Diocese did not require or have performed any medical or psychological evaluation or assessment of Father Brian and did not otherwise conduct

any background check or investigation of him, or it did so in a negligent and willful and/or grossly negligent or reckless manner.

117. Upon information and belief, in connection with Father Brian's assignment to St. Anthony's, St. Anthony's did not require or have performed any medical or psychological evaluation or assessment of Father Brian and did not otherwise conduct any background check or investigation of him, or it did so in a negligent and willful and/or grossly negligent or reckless manner.

118. At the time of Father Brian's assignment, the pastor of St. Anthony's was Father Edward Donnelly ("Father Donnelly").

119. Upon information and belief, Father Donnelly was trained and educated at the Seminary.

120. Upon information and belief, Father Donnelly was ordained and incardinated as a priest of the Diocese.

121. Upon information and belief, the Diocese assigned Father Donnelly as the pastor of St. Anthony's.

122. Upon information and belief, as the assigned pastor at St. Anthony's, Father Donnelly was an agent, servant and employee of St. Anthony's and the Diocese.

123. Upon information and belief, as the assigned pastor at St. Anthony's, Father Donnelly was responsible for the supervision and oversight of Father Brian in the performance of his priestly duties and his behavior with parishioners.

124. Upon information and belief, the Diocese did not properly train Father Donnelly with respect to, among other things, the proper investigation, reporting,

treatment, counseling and handling of priests and clergy under his authority accused of engaging in the sexual abuse of minor children, or it did so in a negligent and willful and/or grossly negligent or reckless manner with conscious indifference and utter disregard of the health, safety and rights of others.

B. Lack of Appropriate Oversight of Father Brian in Connection with his Activities with Minor Children of Parishioners and the Resulting Sexual Assaults and Abuse

125. Upon information and belief, immediately following his assignment at St. Anthony's, and with the knowledge of Father Donnelly, Father Brian began personally engaging with parishioners and their children, and often visited them at their homes.

126. Upon information and belief, in furtherance of the performance of his duties, and with the knowledge of Father Donnelly, Father Brian frequently engaged one-on-one and in small groups with male minor children of parishioners.

127. Upon information and belief, the Diocese knew or should have known that Father Brian was interacting one-on-one and in small groups with minor male children of parishioners.

128. Upon information and belief, neither Father Donnelly nor the Diocese performed any oversight of Father Brian's interactions with children of parishioners.

129. Upon information and belief, neither Father Donnelly nor the Diocese properly established any rules or regulations pertaining to Father Brian's interaction with children of parishioners.

130. Upon information and belief, to the extent that Father Donnelly or the Diocese established any rules or regulations pertaining to such interactions, they failed to enforce them.

131. Upon information and belief, in furtherance of the performance of his duties and with the knowledge of Father Donnelly, Father Brian often took male minor children with him on outings and overnight trips without any other adults present.

132. Upon information and belief, the Diocese knew or should have known that Father Brian was taking minor male children with him on outings and overnight trips without any other adults present.

133. Upon information and belief, neither Father Donnelly nor the Diocese properly performed any oversight of these outings and overnight trips, nor did they properly establish or enforce any rules or regulations pertaining to same.

134. Upon information and belief, throughout Father Brian's assignment at St. Anthony's, Father Donnelly knew that Father Brian was abusing alcohol, yet did nothing to control or stop or report such behavior.

135. Upon information and belief, on his outings and overnight trips with children, Father Brian regularly supplied and encouraged the children to consume alcohol.

136. Upon information and belief, Father Donnelly knew or should have known that Father Brian was supplying and encouraging children to drink alcohol, and did not stop or report such behavior.

137. Upon information and belief, the Diocese knew or should have known that Father Brian was supplying and encouraging children to drink alcohol, and did not stop or report such behavior.

138. Upon information and belief, through the provision of alcohol to these children, Father Brian would bring them to the point of severe drunkenness.

139. Upon information and belief, as Father Brian progressed in his interactions with these children, he encouraged them to drink more and more alcohol, all of which he supplied.

140. Upon information and belief, Father Brian's behavior and use of alcohol with these children was employed as a means of grooming them, loosening their inhibitions and rendering them more unguarded and susceptible for him to sexually assault and abuse.

141. Upon information and belief, during his assignment at St. Anthony's, Father Brian repeatedly molested and sexually assaulted several of these minor male children, including, but not limited to, exposing himself to them, masturbating in front of them, encouraging them to expose themselves to him, encouraging them to masturbate in front of him, groping their genitals, forcibly touching them in a sexual manner, and molesting and sexually assaulting them while they were

drunk, incapacitated, sleeping or in an unconscious state due to excessive consumption of alcohol that he had provided.

C. 1978 Report by Child to the Pastor of St. Anthony's that Father Brian had Sexually Assaulted and Abused Him

142. Upon information and belief, in or about August 1978, Father Brian took two of the minor male children of parishioners of St. Anthony's with him on a camping trip, without the presence of another adult.

143. Upon information and belief, during that camping trip, Father Brian gave the children alcohol and got them both drunk.

144. Upon information and belief, in the evening, while the children were sleeping in a tent or in an unconscious state due to excessive alcohol consumption, one of the children was suddenly awakened by Father Brian, who had climbed in next to the child.

145. Upon information and belief, Father Brian placed his hand down inside the front of the child's pants and was groping and fondling the child's penis.

146. Upon information and belief, the child pushed Father Brian's hand away and ran out of the tent.

147. Upon information and belief, shortly after returning home from the camping trip, the child scheduled an appointment to meet with Father Donnelly and did meet with him in his office at the parish of St. Anthony's.

148. Upon information and belief, during his meeting with Father Donnelly, the child reported in detail to Father Donnelly that he had been molested and sexually assaulted by Father Brian.

149. Upon information and belief, Father Donnelly intimated to the child that he was already aware that Father Brian was engaging in such molestations and sexual assaults, stating to the child, with reference to Father Brian, words to the effect, "We know he has his challenges."

150. Upon information and belief, Father Donnelly did not offer the child any assistance, counseling or support.

151. Upon information and belief, Father Donnelly discouraged the child from advising anyone else of the sexual assault by Father Brian.

152. Upon information and belief, after his meeting with Father Donnelly, and following Father Donnelly's wishes, the child did not tell his parents or the authorities about the sexual assault upon him by Father Brian.

153. Upon information and belief, at or about this time, Father Brian separately admitted to Father Donnelly that he had sexually assaulted and molested this same child.

154. Upon information and belief, at or about this time, Father Brian admitted to Father Donnelly that he had sexually assaulted and molested other children of parishioners of St. Anthony's.

155. Upon information and belief, Father Donnelly did not investigate or cause an investigation to be performed into any of the sexual abuses and assaults.

156. Upon information and belief, Father Donnelly did not punish Father Brian.

157. Upon information and belief, Father Donnelly did not require Father Brian to undergo any associated training, education or counseling.

158. Upon information and belief, Father Donnelly did not report or disclose Father Brian's conduct to the police, to Child Protective Services, to the children's parents or to other parishioners.

159. Upon information and belief, Father Donnelly knew at the time that such conduct by Father Brian was improper, inexcusable, contrary to Church teachings, rules and standards of conduct, and criminal.

160. Upon information and belief, Father Donnelly's own actions and failures to act violated multiple rules and standards of conduct set forth in the Canon Law.

161. Upon information and belief, Father Donnelly's actions and failures to act were in keeping with the behavior and norm in the Diocese at the time, which was, among other things, to keep quiet about sexual abuse of children inflicted by members of the clergy of the Diocese, regardless of the requirements of the Canon Law, civil law or criminal law.

162. Upon information and belief, the Diocese knew or should have known during and at the time of his assignment at St. Anthony's that Father Brian had and was sexually abusing, assaulting and molesting children there.

163. Upon information and belief, Father Donnelly and the Diocese did nothing to investigate, to restrain such behavior, or to otherwise act to protect the children of parishioners from Father Brian.

164. Instead of investigating, suspending, punishing and/or removing Father Brian from the parish and the priesthood, St. Anthony's and the Diocese protected Father Brian, leaving him free to sexually abuse and assault additional children of parishioners at St. Anthony's and other children at other parishes of the Diocese including, a number of years later, the Plaintiff Sean K. Donoghue.

D. Father Donnelly's Grand Jury Testimony and His Public Admission of Wrongdoing Regarding His Failure to Act with Respect to Father Brian

165. In or about May 2002, a Suffolk County Supreme Court Special Grand Jury, Term 1D ("Grand Jury") was empaneled to hear testimony and consider exhibits in the performance of an investigation into the role of the Diocese of Rockville Centre, its priests and parishes with respect to numerous allegations of sexual assault and abuse of children by clergy of the Diocese.

166. The Grand Jury issued a 181-page Report submitted to the Suffolk County Supreme Court on or about January 17, 2003 (the "Grand Jury Report"), which was made available to the public on or about February 10, 2003.

167. Among other things, the Grand Jury Report contains a discussion of findings and testimony regarding several priests of the Diocese accused of sexually

abusing and molesting minor children, whom it identified respectively as Priests A, B, C, D, etc.

168. The Grand Jury Report contains a section regarding, among other things, the sexual assaults perpetrated by "Priest C" upon multiple minor children during his first and second parish assignments, and contains other sections which refer to other findings of the Grand Jury regarding "Priest C."

169. Upon information and belief, "Priest C" in the Grand Jury Report is Father Brian McKeon.

170. Upon information and belief, Father Donnelly provided testimony before the Grand Jury regarding the conduct of Father Brian ("Priest C") while he was at his "first assignment" at St. Anthony's.

171. Upon information and belief, the Grand Jury Report provides as follows with respect to Father Donnelly's testimony:

Priest C had a conscience, at first. Indeed, after abusing a boy in his first assignment he went to the pastor and told him about it. At *Priest C*'s request the pastor spoke to the boy to find out if he was all right and to assure him he should not feel guilty, as he had done nothing wrong. Once the boy, who was 12, assured the pastor that he was not suffering the matter was dropped. Having acted, confessed and been forgiven *Priest C* went on to abuse boys with abandon.

The pastor told no one of *Priest C*'s admission. He also knew that *Priest C* abused alcohol yet never spoke to him about it. Over the years, the pastor remained friendly with *Priest C*. When *Priest C* was eventually sent for psychological treatment in 1998 he admitted to the pastor that he had abused additional underage boys throughout his subsequent assignments. Despite this knowledge of continued sexual abuse, the pastor never told the Director of Priest Personnel

or any other Diocesan official. In fact, he never told anyone about the abuse that he was aware took place from at least 1979, into the 1990's. He did know, however, that the conduct was improper and possibly criminal.

The pastor told the Grand Jury that the climate in the Diocese of Rockville Centre was to keep sexual abuse quiet. Issues and allegations about criminal conduct and the sexual abuse of children were not discussed in the Diocese. He candidly told the Grand Jury that parishioners were placed at risk because of this policy. Nevertheless, even acknowledging he knew of this risk to parishioners, he recommended *Priest C* to become a pastor.

Grand Jury Report, pp. 17-18.

172. On or about April 2, 2002, Father Donnelly publicly admitted his prior knowledge of Father Brian's sexual assault of children of the parish at the time, his recognition that he had an obligation to do more, but that he did not because he "didn't want to get involved" (see, Newsday, 4/2/02, "Expressing Regret Pastor 'Should have done more' to prevent abuse").

173. Upon information and belief, at the time that Father Donnelly first became aware of Father Brian's sexual assaults upon minor children in 1978 and throughout the ensuing period of time including and after Father Brian repeatedly sexually assaulted Sean, the Diocese was aware but kept quiet about sexual abuses inflicted upon children by Father Brian and other members of the clergy of the Diocese.

174. Upon information and belief, during this time period, the behavior and norm in the Diocese was to keep quiet about sexual abuse inflicted upon children by members of its clergy.

175. Upon information and belief, and by his admission, Father Donnelly was following these behaviors and norms of the Diocese in not acting to report, investigate, punish, and/or counsel Father Brian.

VI. FATHER BRIAN'S TRANSFER TO GOOD SHEPHERD CHURCH, HIS SECOND ASSIGNMENT AS A PRIEST OF THE DIOCESE, FROM JANUARY 1982 THROUGH JUNE 1990, AND HIS REPORTED AND KNOWN ALCOHOL AND SEXUAL ABUSE AND MOLESTATION OF MINOR MALE CHILDREN

A. Lack of Appropriate Review and Oversight of Father Brian by Diocese and Good Shepherd, and Lack of Proper Training of Good Shepherd's Pastor

176. Upon information and belief, the Diocese determined to transfer Father Brian away from St. Anthony's and assigned him as a priest at Good Shepherd in or about January 1982.

177. Upon information and belief, Good Shepherd was Father Brian's second assignment as a priest of the Diocese.

178. Upon information and belief, as an assigned priest at Good Shepherd, Father Brian was an agent, servant and employee of Good Shepherd and the Diocese.

179. Upon information and belief, in connection with its assignment of Father Brian to Good Shepherd, the Diocese did not require or have performed any medical or psychological evaluation or assessment of Father Brian and did not otherwise conduct any background check or investigation of him, or it did so in a negligent and willful and/or grossly negligent or reckless manner.

180. Upon information and belief, in connection with Father Brian's assignment to Good Shepherd, Good Shepherd did not require or have performed any medical or psychological evaluation or assessment of Father Brian and did not otherwise conduct any background check or investigation of him, or it did so in a negligent and willful and/or grossly negligent or reckless manner.

181. Upon information and belief, at or about the time of this appointment, the Diocese also appointed Father Thomas L. Spadaro ("Father Spadaro") as the new pastor of Good Shepherd.

182. Upon information and belief, Father Spadaro was trained and educated at the Seminary.

183. Upon information and belief, Father Spadaro was ordained and incardinated as a priest of the Diocese.

184. Upon information and belief, as the assigned pastor at Good Shepherd, Father Spadaro was an agent, servant and employee of Good Shepherd and the Diocese.

185. Upon information and belief, as the assigned pastor at Good Shepherd, Father Spadaro was responsible for the supervision and oversight of Father Brian in the performance of his priestly duties and his behavior with parishioners.

186. Upon information and belief, the Diocese did not properly train Father Spadaro with respect to, among other things, the proper investigation, reporting, treatment, counseling and handling of priests and clergy under his authority accused of engaging in the sexual abuse of minor children, or it did so in a negligent and willful

and/or grossly negligent or reckless manner with conscious indifference and utter disregard of the health, safety and rights of others.

187. Upon information and belief, the Diocese did not properly train Father Spadaro with respect to, among other things, the proper investigation, reporting, treatment, counseling and handling of priests and clergy under his authority accused of improperly providing alcohol to minor children, or it did so in a negligent and willful and/or grossly negligent or reckless manner with conscious indifference and utter disregard of the health, safety and rights of others.

188. Upon information and belief, the Diocese did not properly train Father Spadaro with respect to, among other things, the proper investigation, reporting, treatment, counseling and handling of priests and clergy under his authority accused of bringing minor children with them to their living quarters in the rectory, or it did so in a negligent and willful and/or grossly negligent or reckless manner with conscious indifference and utter disregard of the health, safety and rights of others.

189. At the time the Diocese determined to transfer him to Good Shepherd, the Diocese knew or should have known that Father Brian had been accused of sexually abusing and assaulting children of parishioners while at St. Anthony's.

190. At the time the Diocese determined to transfer him to Good Shepherd, the Diocese knew or should have known that Father Brian was abusing alcohol with children of parishioners while at St. Anthony's.

191. Upon information and belief, the Diocese did not advise or warn the pastor or the parishioners of Good Shepherd about Father Brian's abuse of alcohol and his prior sexual abuse, assault and molestation of children.

192. Upon information and belief, the pastor at St. Anthony's did not advise or warn the pastor of Good Shepherd about Father Brian's abuse of alcohol and his prior sexual abuse, assault and molestation of children.

B. Lack of Appropriate Oversight of Father Brian in Connection with his Activities with Minor Children at Good Shepherd and the Resulting Sexual Assaults and Abuse

193. Upon information and belief, throughout Father Brian's assignment at Good Shepherd, Father Spadaro knew that Father Brian was abusing alcohol, yet did nothing to address or stop or report such behavior.

194. Upon information and belief, throughout Father Brian's assignment at Good Shepherd, the Diocese knew that Father Brian was abusing alcohol, yet did nothing to address or stop or report such behavior.

195. Upon information and belief, upon commencing his assignment at Good Shepherd, and with the knowledge of Father Spadaro, Father Brian began personally engaging with parishioners and their children, and often visited them at their homes.

196. Upon information and belief, in furtherance of the performance of his duties, and with the knowledge of Father Spadaro, Father Brian frequently engaged one-on-one and in small groups with male minor children of parishioners.

197. Upon information and belief, the Diocese knew or should have known that Father Brian was interacting one-on-one and in small groups with minor male children of parishioners.

198. Upon information and belief, neither Father Spadaro nor the Diocese performed any oversight of these interactions with children, nor did they establish any rules or regulations pertaining to same.

199. Upon information and belief, to the extent that either Father Spadaro or the Diocese established any rules or regulations pertaining to such interactions they were not enforced.

200. Upon information and belief, with the knowledge of Father Spadaro, Father Brian took minor male children back with him to his living quarters at the rectory of Good Shepherd.

201. Upon information and belief, when he took minor male children back with him to his living quarters at the rectory of Good Shepherd, Father Brian regularly provided them alcohol that he encouraged them to drink.

202. Upon information and belief, Father Spadaro knew or should have known that Father Brian was providing alcohol to the children, but did not act to stop or report such conduct to the bishop or any Church or public official.

203. Upon information and belief, through the provision of alcohol to these children, Father Brian would bring them to the point of severe drunkenness.

204. Upon information and belief, Father Brian's behavior and use of alcohol with these children was employed as a means of grooming them, loosening their

inhibitions, and rendering them more unguarded and susceptible for him to sexually assault and abuse.

205. Upon information and belief, Father Brian repeatedly had minor male children spend the night with him in his living quarters at the rectory of Good Shepherd.

206. Upon information and belief, Father Spadaro knew or should have known that Father Brian was having minor male children spend the night with him in his living quarters at the rectory of Good Shepherd, but did nothing to stop or report such behavior.

207. Upon information and belief, Father Brian showed pornographic films to the children while they were with him in his living quarters at the rectory of Good Shepherd.

208. Upon information and belief, Father Spadaro knew or should have known that Father Brian had pornographic films in his living quarters at the rectory of Good Shepherd.

209. Upon information and belief, Father Spadaro knew or should have known that Father Brian was showing pornographic films to children in his living quarters at the rectory of Good Shepherd, and did not stop or report such behavior.

210. Upon information and belief, Father Brian repeatedly sexually assaulted and molested several of these children, including but not limited to, exposing himself to them, masturbating in front of them, encouraging them to expose themselves to him, encouraging them to masturbate in front of him, groping their genitals, forcibly

touching them in a sexual manner, and molesting and sexually assaulting them while they were drunk, incapacitated, sleeping or in an unconscious state due to excessive consumption of alcohol provided by him.

211. Upon information and belief, Father Spadaro knew or should have known that Father Brian was sexually assaulting and molesting children in his living quarters at the rectory at Good Shepherd, and did nothing to stop or report such behavior.

212. Upon information and belief, the Diocese knew or should have known that Father Brian was sexually assaulting and molesting children in his living quarters at the rectory at Good Shepherd, and did nothing to stop or report such behavior.

C. **1988 Report by Father Seagriff to Pastor of Good Shepherd that Father Brian was Inappropriately Bringing Minor Male Children to his Living Quarters in the Rectory**

213. Upon information and belief, the Diocese assigned Father Edward M. Seagriff ("Father Seagriff") to serve as a priest at Good Shepherd in or about December 1988.

214. Upon information and belief, shortly after his assignment began at Good Shepherd, Father Seagriff observed that Father Brian was bringing minor male children into his room in the rectory and providing them with alcohol.

215. Upon information and belief, Father Seagriff also observed that Father Brian was having minor male children spend the night with him in his room in the rectory.

216. Upon information and belief, Father Seagriff reported his observations and raised concerns regarding Father Brian's behavior to Father Spadaro.

217. Upon information and belief, Father Spadaro rebuffed Father Seagriff.

218. Upon information and belief, Father Spadaro told Father Seagriff that Father Brian was his (Father Spadaro's) friend.

219. Upon information and belief, Father Spadaro did not conduct an investigation into Father Seagriff's report to him.

220. Upon information and belief, Father Seagriff raised additional concerns to Father Spadaro regarding Father Brian's behavior when he observed that it was continuing to occur.

221. Upon information and belief, Father Spadaro continued to rebuff Father Seagriff's concerns.

222. Upon information and belief, Father Spadaro did not act to investigate the reported conduct, or to prevent Father Brian from bringing children into his living quarters in the rectory, from providing alcohol to them, and from having them spend the night with him there.

223. Upon information and belief, Father Spadaro's inaction was in keeping with the behaviors and norms in the Diocese at that time which was, among other

things, to keep quiet about sexual abuse of children inflicted by members of the clergy of the Diocese, regardless of the requirements of Canon Law, civil law or criminal law.

224. Upon information and belief, Father Brian repeatedly sexually assaulted several male children while assigned to Good Shepherd, including, but not limited to, exposing himself to them, masturbating in front of them, encouraging them to expose themselves to him, encouraging them to masturbate in front of him, groping their genitals, molesting, sexually assaulting and sodomizing them while they were drunk, asleep or unconscious due to their consumption of alcohol provided by him.

225. Upon information and belief, among other things, these abuses and assaults took place in Father Brian's living quarters in the rectory at Good Shepherd.

226. Upon information and belief, among other things, these abuses and assaults also took place during outings and overnight trips that Father Brian took with children.

227. Upon information and belief, Father Spadaro knew or should have known that Father Brian was sexually abusing, assaulting and molesting children in his living quarters at the rectory at Good Shepherd, and did nothing to stop or report such behavior.

228. Upon information and belief, the Diocese knew or should have known that Father Brian was sexually abusing, assaulting and molesting children in his living quarters at the rectory at Good Shepherd, and did nothing to stop or report such behavior.

229. Upon information and belief, Father Spadaro knew or should have known that Father Brian was sexually abusing, assaulting and molesting children on outings and overnight trips that Father Brian was taking with them, and did nothing to stop or report such behavior.

230. Upon information and belief, the Diocese knew or should have known that Father Brian was sexually abusing, assaulting and molesting children on outings and overnight trips that Father Brian was taking with them, and did nothing to stop or report such behavior.

D. Father Seagriff's 1986 Report to the Bishop and the Vice Chancellor of the Sexual Abuse and Assault of Children by Another Member of the Clergy of the Diocese, and Their Failure and Refusal to Appropriately Investigate and Act

231. Upon information and belief, prior to his assignment to Good Shepherd, Father Seagriff had been assigned as a priest at St. Brigid Church ("St. Brigid") in the Diocese located at 50 Post Avenue, Westbury, New York.

232. Upon information and belief, while functioning as a priest at St. Brigid, Father Seagriff observed that a priest at St. Brigid, Father Matthew Fitzgerald ("Father Fitzgerald"), was fondling and molesting young boys.

233. Upon information and belief, in or about 1986, Father Seagriff reported his observations to a Vice Chancellor of the Diocesan Pastoral Center ("Vice Chancellor"), to a Diocesan lawyer and to the then-pastor of St. Brigid.

234. Upon information and belief, the Vice Chancellor was Monsignor Alan J. Placa ("Monsignor Placa").

235. Upon information and belief, Monsignor Placa is the "Priest F" referenced in the Grand Jury Report.

236. Upon information and belief, the Grand Jury found that Monsignor Placa had himself been credibly accused of the sexual molestation and assault of several male children.

237. Upon information and belief, the Diocese nonetheless appointed Monsignor Placa to, among other things, assist in developing the Diocesan policy in response to allegations of sexual abuse of children by priests.

238. Upon information and belief, upon receiving Father Seagriff's report concerning Father Fitzgerald, these officials of the Diocese instructed Father Seagriff not to contact the police regarding his observations of Father Fitzgerald.

239. Upon information and belief, Father Seagriff obeyed their directive.

240. Upon information and belief, the aforesaid diocesan officials took no action to address or prevent clergy abuse of children based on the information provided by Father Seagriff nor did they report such information to any public official or authority.

241. Upon information and belief, in or about June 1976, Most Reverend John R. McGann was appointed Bishop of the Diocese ("Bishop McGann"), and was the bishop at all relevant times thereafter through and including the dates in 1990 when Father Brian repeatedly sexually assaulted Plaintiff Sean K. Donoghue.

242. Upon information and belief, in or about the fall of 1986, Father Seagriff met with Bishop McGann and advised him of his observations of Father Fitzgerald's sexual abuse of children at St. Brigid.

243. Upon information and belief, Bishop McGann expressed anger at Father Seagriff for making this report to him.

244. Upon information and belief, Bishop McGann asked Father Seagriff what he expected him (the Bishop) to do about Father Fitzgerald and other priests who were sexually abusing children, and Father Seagriff responded with words to the effect, "Throw them out."

245. Upon information and belief, Bishop McGann repudiated Father Seagriff's suggestion, stating words to the effect, "That's why I am the bishop and you are not."

246. Upon information and belief, Father Seagriff publicly reported his conversations with Bishop McGann and the Vice Chancellor to a reporter at *Newsday* (see, *Newsday*, March 18, 2003, Priest: Former Bishop Ignored Abuse Reports / Statement Links McGann to Church Cover-Up in 1980s).

247. Upon information and belief, Bishop McGann's response caused Father Seagriff not to report further observations regarding priests behaving improperly and possibly sexually abusing minor children.

248. Upon information and belief, following his meeting with Bishop McGann, Father Seagriff was placed on leave from the Diocese and did not receive an assignment within the Diocese until his assignment in 1988 to Good Shepherd.

249. Upon information and belief, following Father Seagriff's report regarding Father Fitzgerald, Father Fitzgerald was not stripped by the Diocese of his authority as an ordained priest of the Diocese.

250. Upon information and belief, the Diocese instead assigned Father Fitzgerald to another parish within the Diocese, where he was placed in charge of that parish's youth ministry.

251. Upon information and belief, in or about 1989, Father Fitzgerald was transferred by the Diocese to a diocese in Palm Beach, Florida.

252. Upon information and belief, in or about this time, the Diocese transferred several other priests of the Diocese accused of sexual misconduct to dioceses in south Florida, rather than removing them from the ministry.

253. Upon information and belief, Father Fitzgerald sexually abused children at parishes in Florida.

254. Upon information and belief, in or about 2009, a Church court found Father Fitzgerald guilty of abusing a child in the 1980's and removed him from the ministry.

E. Good Shepherd Parishioners' Report to the Diocese That Father Brian was Providing Their Children With Alcohol, and the Diocese's Failure and Refusal to Appropriately Investigate and Act

255. Upon information and belief, during Father Brian's assignment at Good Shepherd, which began on or about January 22, 1982, and continued until on or about June 20, 1990, parishioners of Good Shepherd had at least one meeting with

officials of the Diocese and expressed concern to them that Father Brian was improperly providing their children with alcohol.

256. Upon information and belief, in response to the complaint, officials of the Diocese held a meeting with Father Brian.

257. Upon information and belief, at the meeting, officials of the Diocese discussed the topic of alcohol abuse with Father Brian.

258. Upon information and belief, officials of the Diocese did not undertake or conduct an investigation into the circumstances surrounding Father Brian's use of alcohol with the children.

259. Upon information and belief, officials of the Diocese did not undertake or conduct an investigation into Father Brian's activities with parish children.

260. Upon information and belief, officials of the Diocese did not request or require Father Brian to undergo any form of assessment or examination relating to his consumption of alcohol and activities with children.

261. Upon information and belief, at or following the meeting, Father Brian promised to attend Alcoholics Anonymous.

262. Upon information and belief, the Diocese imposed no requirements upon Good Shepherd or Father Brian in connection with the complaints regarding his providing alcohol to children.

263. Upon information and belief, the Diocese did not follow up to ensure that Father Brian was attending Alcoholics Anonymous.

264. Upon information and belief, Good Shepherd did not follow up to ensure that Father Brian was attending Alcoholics Anonymous.

265. Upon information and belief, Father Brian did not then attend Alcoholics Anonymous.

F. Grand Jury Testimony Provided by Father Seagriff Regarding his Reports to the Good Shepherd Pastor of Father Brian's Inappropriate Behavior with Minor Male Children, and Related Grand Jury Findings

266. Upon information and belief, Father Seagriff provided testimony before the Grand Jury regarding Father Brian and his observations during Father Brian's "second assignment" at Good Shepherd.

267. Upon information and belief, the Grand Jury Report provides as follows with respect to his testimony:

A parish priest in *Priest C*'s second assignment testified in the Grand Jury. He explained that immediately upon taking up residence in the rectory, he noticed that *Priest C* was entertaining boys in his room. When he spoke to the pastor about this, he was told that *Priest C* was the pastor's friend and that the pastor could not help in this matter. The associate repeated his concern on a subsequent occasion to the pastor who again advised that he could not help him. The Grand Jury finds that this pastor turned a blind eye to the behavior problems of *Priest C*.

Grand Jury Report, p. 18.

268. Upon information and belief, the Grand Jury Report further provides as follows with respect to events that occurred during Father Brian's assignment at Good Shepherd:

Priest C's drinking and entertaining boys in his rectory rooms, was open and notorious. There seemed to be a constant party underway in his private rooms in the rectory. Visitors were loud and boisterous. Complaints by another priest about this to the pastor and to the parish Deacon were ignored. The Deacon especially felt, that the priest who had complained about *Priest C* was simply trying to cause division in the parish.

Grand Jury Report, p. 20.

269. Upon information and belief, the Grand Jury Report further provides as follows with respect to Father Brian's activities at Good Shepherd:

In his second assignment, *Priest C* insinuated himself into the social lives of a number of parish families. He became a fixture in their households and with their children. *Priest C* was included on family vacations, trips to the beach, golf outings and many parties. Long before they knew *Priest C* had sexually abused their children, the families grew concerned about his exposing them to alcohol. Eventually, one family complained about this to the Diocese and, after a meeting outlining his problems with alcohol abuse and parish children, *Priest C* promised to attend AA.

As the families would later painfully discover, *Priest C* was sexually abusing and performing acts of oral and anal sodomy upon their children, throughout this entire time period. For most of the boys the abuse took on a recurring theme. The boys and *Priest C* would drink, the boys would pass out or fall asleep and awaken to *Priest C* masturbating them and/or performing oral sex. The abuse occurred where there was an opportunity; in *Priest C*'s rectory room, at the beach, on camping trips and on a ski trip without regard to witnesses. Indeed, on at least one occasion, other boys witnessed *Priest C* orally sodomizing one of their friends.

Grand Jury Report, pp. 18-19.

VII. FATHER BRIAN'S TRANSFER BY THE DIOCESE TO HIS THIRD ASSIGNMENT, ST. ANNE'S CHURCH, COMMENCING JUNE 20, 1990, AND HIS REPEATED SEXUAL ASSAULTS UPON PLAINTIFF SEAN K. DONOGHUE STARTING SEVERAL MONTHS LATER

A. Lack of Appropriate Oversight of Father Brian by Diocese and St. Anne's, and Lack of Proper Training of St. Anne's Pastor

270. Upon information and belief, the Diocese determined to transfer Father Brian away from Good Shepherd and assigned him as a priest at St. Anne's in or about June 20, 1990.

271. Upon information and belief, St. Anne's was Father Brian's third assignment as a priest of the Diocese.

272. Upon information and belief, as an assigned priest at St. Anne's, Father Brian was an agent, servant and employee of St. Anne's and the Diocese.

273. Upon information and belief, in connection with its assignment of Father Brian to St. Anne's, the Diocese did not require or have performed any medical or psychological evaluation or assessment of Father Brian and did not otherwise conduct any background check or investigation of him, or it did so in a negligent and willful and/or grossly negligent or reckless manner.

274. Upon information and belief, in connection with Father Brian's assignment to St. Anne's, St. Anne's did not require or have performed any medical or psychological evaluation or assessment of Father Brian and did not otherwise conduct any background check or investigation of him, or it did so in a negligent and willful and/or grossly negligent or reckless manner.

275. Upon information and belief, at or about the time of this appointment, the Diocese also appointed Monsignor John C. Seidenschwang ("Monsignor Seidenschwang") as a new pastor to St. Anne's.

276. Upon information and belief, Monsignor Seidenschwang was trained and educated at the Seminary.

277. Upon information and belief, Monsignor Seidenschwang was ordained and incardinated as a priest of the Diocese.

278. Upon information and belief, as the assigned pastor at St. Anne's, Monsignor Seidenschwang was an agent, servant and employee of St. Anne's and the Diocese.

279. Upon information and belief, as the assigned pastor at St. Anne's, Monsignor Seidenschwang was responsible for the supervision and oversight of Father Brian in the performance of his priestly duties and his behavior with parishioners.

280. Upon information and belief, the Diocese did not properly train Monsignor Seidenschwang with respect to, among other things, the proper investigation, reporting, treatment, counseling and handling of priests and clergy under his authority accused of engaging in the sexual abuse of minor children, or it did so in a negligent and willful and/or grossly negligent or reckless manner.

281. Upon information and belief, the Diocese did not properly train Monsignor, Seidenschwang with respect to, among other things, the proper investigation, reporting, treatment, counseling and handling of priests and clergy under his authority

accused of improperly providing alcohol to minor children, or it did so in a negligent and willful and/or grossly negligent or reckless manner.

282. Upon information and belief, the Diocese did not properly train Monsignor Seidenschwang with respect to, among other things, the proper investigation, reporting, treatment, counseling and handling of priests and clergy under his authority accused of bringing minor children with them to their living quarters in the rectory, or it did so in a negligent and willful and/or grossly negligent or reckless manner.

283. Upon information and belief, at the time the Diocese determined to transfer him to St. Anne's, the Diocese knew or should have known that Father Brian had been abusing alcohol with minor children of parishioners at St. Anthony's and at Good Shepherd.

284. Upon information and belief, at the time the Diocese determined to transfer him to St. Anne's, the Diocese knew or should have known that Father Brian had been sexually assaulting and abusing minor children of parishioners at St. Anthony's and at Good Shepherd.

285. Upon information and belief, the Diocese did not warn the pastor or the parishioners of St. Anne's about Father Brian.

286. Upon information and belief, the pastor at St. Anthony's did not warn the pastor of St. Anne's about Father Brian.

287. Upon information and belief, the pastor at Good Shepherd did not warn the pastor of St. Anne's about Father Brian.

288. Upon information and belief, neither the Diocese nor St. Anne's properly conducted an assessment, background check or investigation of Father Brian in connection with his assignment to the parish.

289. Upon information and belief, to the extent that the Diocese or St. Anne's did conduct an assessment, background check or investigation of Father Brian in connection with his assignment to the parish, it did so in a negligent and willful and/or grossly negligent or reckless manner.

B. Lack of Appropriate Oversight of Father Brian in Connection with his Activities with Minor Children at St. Anne's and Resulting Sexual Abuse

290. Upon information and belief, throughout Father Brian's assignment at St. Anne's and prior to his sexual assaults and abuse of Sean, Monsignor Seidenschwang knew that Father Brian was abusing alcohol, yet did nothing to address or stop or report such behavior.

291. Upon information and belief, immediately following his assignment at St. Anne's, Father Brian began personally engaging with parishioners and their children.

292. Upon information and belief, in the alleged furtherance of his duties, and with the knowledge of Monsignor Seidenschwang, Father Brian frequently engaged one-on-one and in small groups with male minor children.

293. Upon information and belief, the Diocese knew or should have known that Father Brian was interacting one-on-one and in small groups with minor male children.

294. Upon information and belief, neither Monsignor Seidenschwang nor the Diocese properly performed any oversight of these interactions with children, nor did they establish any rules or regulations pertaining to same.

295. Upon information and belief, to the extent that either Monsignor Seidenschwang or the Diocese established any rules or regulations pertaining to such interactions, they were not enforced.

296. Upon information and belief, Monsignor Seidenschwang knew or should have known that Father Brian was taking minor male children back with him to his living quarters at the rectory of St. Anne's.

297. Upon information and belief, Monsignor Seidenschwang did not act to stop or report such behavior.

298. Upon information and belief, the Diocese knew or should have known that Father Brian was taking minor male children back with him to his living quarters at the rectory at St. Anne's.

299. Upon information and belief, the Diocese did not act to stop or report such behavior.

300. Upon information and belief, when he took minor male children back with him to his living quarters at the rectory of St. Anne's, Father Brian provided alcohol to the children and encouraged them to drink it.

301. Upon information and belief, Monsignor Seidenschwang knew or should have known that when Father Brian took minor male children with him back to his living quarters at the rectory of St. Anne's, he was providing alcohol to them.

302. Upon information and belief, Monsignor Seidenschwang did not act to stop or report such behavior.

303. Upon information and belief, the Diocese knew or should have known that when Father Brian took minor male children back to his living quarters at the rectory of St. Anne's, he was providing alcohol to them.

304. Upon information and belief, the Diocese did not act to stop or report such behavior.

C. The Sexual Assaults and Attacks Upon Sean

305. In or about the Fall of 1990, Sean K. Donoghue was a twelve (12) year old child.

306. At the time, Sean and his family were parishioners at defendant Notre Dame.

307. At all times herein alleged, the Catholic Church, the Diocese and Notre Dame served as a central and revered part of Sean's life and that of his family as well as their community.

308. At all times of the sexual abuses and assaults herein alleged, Sean was an altar boy at Notre Dame.

309. Sean deemed his role as an altar boy a great honor and responsibility.

310. Sean was taught to revere priests and pastors, and did his best to honor his obligations as an altar boy and parishioner and to obey their requests, instructions and directives.

311. In the course of performing his duties and obligations as an altar boy, Sean was often called upon to assist the pastor and priests of Notre Dame as well as visiting clergy in the performance of their duties at Notre Dame.

312. At such times as he was performing these duties and obligations, Sean was acting under the care, custody and responsibility of the Diocese and of the pastor and priests of Notre Dame.

313. Upon information and belief, at the time, Notre Dame and the Diocese did not have a protocol in place with respect to the treatment, supervision and care of altar boys performing services at Notre Dame.

314. Upon information and belief, if Notre Dame and the Diocese did then have a protocol in place with respect to the treatment, supervision and care of altar boys performing services at Notre Dame, it was not enforced.

315. Upon information and belief, at the time, Notre Dame and the Diocese did not have a protocol for ensuring that altar boys got home safely at the conclusion of performing services for its clergy at Notre Dame.

316. Upon information and belief, if Notre Dame and the Diocese did then have a protocol for ensuring that altar boys got home safely at the conclusion of performing services for its clergy at Notre Dame, it was not enforced.

317. Upon information and belief, at the time, the pastor of Notre Dame was Father John E. Murray ("Father Murray").

318. Upon information and belief, at the time, the priests assigned by the Diocese to Notre Dame were Father Warren R. Gress, Father Robert T. Wickman, Father Lawrence A. Chadwick and Monsignor. John T. Uris.

319. Upon information and belief, Father Murray, Father Gress, Father Wickman, Father Chadwick and Monsignor Uris were agents, servants and employees of Notre Dame and the Diocese.

320. Upon information and belief, as the assigned pastor at Notre Dame, Father Murray was responsible for the supervision and oversight of all priests assigned to the parish and all "visiting" priests performing ministerial functions there.

321. Upon information and belief, as a direct and foreseeable result of defendants' repeated failures to restrain Father Brian over the course of 13 years of numerous sexual assaults and abuses of minor male children, by the time Father Brian encountered Sean in 1990, Father Brian had abandoned his long-standing prior pattern of more slowly grooming his victims before his initial assault.

i. The First Sexual Assault

322. One Saturday afternoon in or about October 1990, Sean was asked to assist as an altar boy at a Saturday afternoon wedding being held at Notre Dame.

323. He walked to Notre Dame which was located a short distance from his home.

324. Father Brian was present and was officiating as a visiting priest at the wedding, even though he was not the pastor nor a priest assigned to Notre Dame.

325. Upon information and belief, the pastor and/or priests at Notre Dame knew or should have known that the wedding was taking place at Notre Dame that day and that Father Brian was visiting and officiating.

326. Upon information and belief, the pastor and/or priests at Notre Dame knew that Sean had been asked, and assigned, and would be assisting as an altar boy at the wedding.

327. Upon information and belief, no pastor or priest from Notre Dame was present when the wedding was taking place or engaged in any form of supervision of the wedding.

328. No pastor or priest from Notre Dame interacted with or supervised Sean in connection with the performance of his duties as altar boy for the wedding.

329. No pastor or priest from Notre Dame acted to look after Sean's well-being in connection with the performance of his duties as an altar boy for the wedding and the assistance he was assigned to provide to Father Brian.

330. Sean was present in the sacristy of Notre Dame getting ready to provide assistance for the wedding mass, when Father Brian, whom Sean had just met for the first time, approached Sean and asked him where he went to school and how old he was.

331. Sean provided this information to him.

332. Father Brian told Sean that he was starting to become a man and that men sometimes have “grown up” drinks.

333. At that moment, Father Brian gave Sean alcohol to drink, which Plaintiff recollects being whisky or scotch, and encouraged Sean to drink it.

334. Sean had never previously drunk alcohol.

335. Father Brian provided Sean additional alcohol in the sacristy before the wedding ceremony began.

336. Upon information and belief, Father Brian’s provision of alcohol to Sean was employed as a means of loosening his inhibitions and rendering him drunk, unstable, unguarded and more susceptible to sexual assault and abuse.

337. After the wedding ceremony was concluded, Father Brian returned with Sean into the sacristy of Notre Dame to change clothes.

338. Father Brian gave Sean money for the services he had provided as an altar boy at the wedding.

339. No pastor or priest of Notre Dame interacted with, supervised or checked on Sean at the conclusion of the wedding, or was present in the sacristy.

340. Father Brian gave Sean more alcohol in the sacristy.

341. Father Brian talked to Sean about sports and continued giving him more and more alcohol to drink.

342. Then Father Brian took off his own pants.

343. Father Brian had no underwear on, and he had an erection.

344. When Sean turned away, Father Brian laughed and said it was okay for Sean to look at his erect penis, saying it was natural.

345. Father Brian asked him if he ever got erections.

346. Father Brian told Sean that he could touch his (Father Brian's) penis if he wanted to, and said that if Sean wanted, Sean could touch his own penis.

347. Sean declined to do either.

348. Then Father Brian started masturbating as he stood in front of Sean and told Sean to do the same.

349. Sean declined to do so, and Father Brian continued to encourage him, telling Sean that all guys do it so we know what to do with girls.

350. Sean was feeling the inebriating effects of the alcohol.

351. Father Brian moved closer toward Sean.

352. Suddenly, Father Brian pulled down Sean's pants and underwear.

353. Sean attempted to cover and protect his penis.

354. Father Brian forcibly grabbed Sean's hand in his own hand and placed both of their hands on Sean's penis, telling him that his penis would get bigger if he touched it.

355. Father Brian then started molesting Sean by grabbing at and groping his penis.

356. Then, grabbing Sean's hand, Father Brian forced Sean's hand onto his (Father Brian's) own erect penis.

357. Sean backed away and then Father Brian backed away and started masturbating in front of Sean.

358. Sean was confused and did not know what he should do.

359. Father Brian then ejaculated in front of Sean into a shirt or towel and wiped himself off.

360. Father Brian then put his own underwear and pants on and walked out, telling Sean to call him "Father Brian" and telling Sean words to the effect that grown men don't share secrets.

361. Sean was not required to check in with the pastor or any priest or anyone else at Notre Dame before leaving for home, nor was there a system in place for doing so.

362. Sean walked home, feeling ill from the alcohol.

363. Confused, ashamed, embarrassed and scared, Sean did not tell his parents or anyone what Father Brian had done.

ii. **The Second and Third Sexual Assaults**

364. A week or so later, Sean was scheduled to serve as an altar boy for an auditorium mass on Sunday in the gymnasium at Notre Dame.

365. The San Francisco 49ers football team was scheduled to play a game that afternoon.

366. Sean intended to watch the game on television at home, later in the afternoon after the mass.

367. Sean's father, who was then a fire fighter for the New York City Fire Department, was working that Sunday, and his parents did not attend the mass.

368. When Sean arrived at Notre Dame, he saw that Father Brian was outside the church.

369. Even though he was not assigned to Notre Dame as a priest, Father Brian told Sean that he would be performing and celebrating the mass.

370. Upon information and belief, the pastor and priests of Notre Dame knew or should have known that Father Brian was performing and celebrating the mass at Notre Dame that day.

371. Upon information and belief, neither the pastor nor the priests of Notre Dame were present when Father Brian was performing the mass, nor did they supervise him in the performance of the mass.

372. No pastor or priest of Notre Dame interacted with or supervised Sean in connection with the performance of his duties as altar boy in assisting Father Brian in the performance of the mass.

373. Inside the building, before the mass, Father Brian elicited from Sean that he intended to watch the football game at home later that afternoon after the mass.

374. At that moment, Father Brian gave Sean alcohol out of a flask and encouraged him to take a drink as an alleged "toast" to the 49ers.

375. Sean did so.

376. Sean walked to the auditorium with Father Brian and assisted him as altar boy in his performance and celebration of the mass.

377. After the mass, they walked back to the sacristy of Notre Dame and Father Brian had Sean drink more alcohol.

378. Father Brian asked Sean if his father was coming to get him and Sean told him that his father was working.

379. No pastor or priest of Notre Dame supervised or checked on Sean before or after Sean finished assisting Father Brian in the mass.

380. Father Brian said he would drive him home, but Sean told him he would walk home because he lived very close to the church.

381. Nonetheless, Father Brian insisted on having Sean get into his car.

382. Sean obeyed.

383. Father Brian gave Sean more alcohol to drink in the car and then started driving.

384. However, Father Brian did not drive Sean home.

385. Rather, Father Brian drove Sean to a parking area behind the Lake Success Shopping Center in New Hyde Park.

386. Father Brian told Sean that he wanted to talk to him more about becoming a man and about girls, since Sean would be turning 13 soon.

387. Father Brian gave Sean more to drink and asked him what kind of music he liked, and if he liked any girls at school.

388. Father Brian asked Sean if he knew what to do with girls if he was alone with them, and then he told Sean that he would show him what men like.

389. Suddenly Father Brian grabbed Sean's arm and told him to get in the back seat of the car with him.

390. In the back of the car, Father Brian pulled his own pants down and told Sean to do the same.

391. Sean was confused and scared, but he obeyed.

392. Father Brian had an erection.

393. Father Brian told Sean that guys really like it when a girl kisses their penis with their mouth.

394. Sean was confused and scared, and then Father Brian put his mouth on Sean's penis and started to orally sodomize him.

395. Father Brian then instructed Sean to place his mouth on Father Brian's penis.

396. Sean was confused and scared, but he obeyed.

397. Father Brian then forced his fingers into Sean's anus.

398. Father Brian then placed some ointment or lubricant on Sean's anus.

399. The ointment or lubricant was cold.

400. Father Brian then forced his penis into Sean's anus, and anally sodomized him.

401. This caused Sean tremendous pain.

402. Sean was crying, but Father Brian did not stop.

403. Father Brian told Sean that girls like it when you do that to them in their vaginas (he used the word “pussy”).

404. After anally sodomizing him, Father Brian pulled up his pants, had Sean do the same and walked with Sean to get a pretzel and soda at a snack bar at the Lake Success Shopping Mall.

405. Sean was terrified and in pain.

406. He did not know what to do, and just wanted to go home.

407. Father Brian then brought Sean back to his car.

408. Sean thought that Father Brian was going to take him home.

409. Father Brian did not then take him home.

410. Instead, Father Brian made him get in the back of the car, where he again anally sodomized Sean.

411. Sean was crying in great pain and agony.

412. Feeling helpless, alone, terrified and unable to do anything, Sean gave up emotionally and physically as Father Brian raped him for the second time that day.

413. Sean just wanted it to be over and to be at home.

414. Father Brian kept Sean imprisoned in the car and did not drop him off near his home until several hours after the mass, but before the football game started.

415. Later, when Sean took off his clothes, he saw blood stains on his underwear.

416. In a panic, Sean hid the underwear in his school bag and threw it out the next day in a trash container outside his home.

417. Sean was sore and in pain for many days, and he suffered pain each time he moved his bowels.

418. Sean was afraid and terrified of Father Brian, and he was also afraid and terrified to tell anybody what had happened.

419. Father Brian had threatened that if Sean told anyone, bad things would happen to him and his family, and shame would fall upon them.

420. These threats made Sean worry about himself, his parents and his sisters.

iii. The Fourth Sexual Assault

421. The Saturday afternoon following the second and third attacks in Father Brian's car, Sean was outside in front of the school at Notre Dame with other children where he intended to play football before the 5 p.m. mass.

422. Father Brian came by, saying that he was dropping things off at the church at Notre Dame.

423. Father Brian instructed Sean to come with him.

424. Sean obeyed, feeling terrified and helpless.

425. Father Brian had him get into his car and he again brought him to the parking area in the back of the Lake Success Shopping Center.

426. Father Brian told him that this time would be easier and more fun than last time.

427. Father Brian forced his penis into Sean's mouth and Sean started to gag and choke.

428. Father Brian forced Sean to keep his mouth on his penis, holding Sean's head as he forcibly moved his penis back and forth in Sean's mouth.

429. Father Brian began repeating Sean's name.

430. Father Brian then ejaculated into Sean's mouth and instructed him to swallow it.

431. Sean resisted, but Father Brian kept forcing Sean's mouth and head down on his penis until Sean complied.

432. Sean felt intense fear and hopelessness.

433. Finally, Father Brian drove Sean back to Notre Dame and repeated his threats for Sean to keep quiet or bad things would happen to him and his family.

iv. The Fifth Sexual Assault

434. A few weeks later, Sean was again serving as an altar boy at the last Sunday mass of the day at Notre Dame.

435. Sean had planned to play football with his friends after the mass, and had told that to his mother.

436. Father Brian did not perform the mass, but he was present in the congregation with the general assembly at Notre Dame.

437. Following the mass, Father Brian approached Sean and instructed him to come with him.

438. Father Brian took Sean into his car and out for pizza.

439. Father Brian then drove Sean to a church parking lot that Sean was unfamiliar with.

440. Sean now knows that the parking lot was at St. Anne's.

441. Father Brian took Sean into the rectory of St. Anne's.

442. Father Brian took Sean into a bedroom there, closed the door and started giving Sean alcohol to drink.

443. Upon information and belief, the bedroom was Father Brian's bedroom and living quarters at St. Anne's.

444. He challenged Sean, as if it were a game, to see who could drink faster, and they did this several times.

445. Father Brian asked Sean if he had tried anything they had "practiced" with girls, and Sean told Father Brian that he had gotten in trouble for rubbing a girl's rear end and for pushing his groin against her.

446. Father Brian told Sean not to do this and said that they needed to "practice" more.

447. Father Brian stripped into just a tee shirt with nothing else on and had an erection.

448. He directed Sean to take off his pants and underwear and gave him more to drink.

449. Sean was confused and terrified, but he obeyed.

450. Father Brian told Sean to sit and he groped him and orally sodomized him.

451. Father Brian directed Sean to kneel and to take his (Father Brian's) penis into his mouth.

452. Father Brian grabbed the back of Sean's head and pushed his penis into Sean's mouth causing him to gag.

453. Sean got upset and was crying, and Father Brian said words to the effect, "It's ok, go slow."

454. Father Brian then had Sean lay down on his side on the bed, and he opened a tube of some ointment or lubricant, which was cold, that he rubbed onto Sean's anus, while holding Sean down with his other arm.

455. He pinned Sean face down on the bed and put his penis into Sean's anus, anally sodomizing and raping him.

456. Sean was crying in pain and fear.

457. Father Brian did not stop.

458. At one point Sean tried to escape toward the door of the bedroom, but Father Brian yanked him back with a fabric restraint that he had wrapped around Sean's neck, like a dog leash, causing him to choke.

459. Father Brian overpowered this crying, terrified 12-year old child, choked him with his hands, and forced him to submit to more sexual abuse and torture.

460. Father Brian continued anally sodomizing and raping Sean as Sean continued to cry.

461. This caused Sean extreme pain, but Father Brian would not stop.

462. Father Brian kept Sean imprisoned in the rectory bedroom for what seemed to Sean like several hours.

463. Sean suffered intense fear and pain, felt terrified, helpless and hopeless.

464. While he kept Sean imprisoned in the bedroom, Father Brian anally sodomized him two more times, ejaculating on and into his anus and another time onto his face.

465. Sean was in terrible pain and in physical and emotional agony.

466. When Father Brian finally brought Sean back to Notre Dame, Sean told Father Brian that he had hurt him and that he was going to tell his Dad.

467. Father Brian said he was sorry, that men don't tell on other men, and that they had done nothing wrong.

468. He told Sean that if he told, it would be a sin and that his parents could be hurt.

469. Father Brian also told Sean that telling would bring shame on Sean, on his family, on his friends and on the Church, and that girls would not like him if they found out.

470. Terrified, ashamed and anguished, Sean did not tell anyone.

471. When Sean took his underwear off later, he saw that it was bloodstained.

472. Sean hid the underwear and disposed of it the following day in a trash container outside his home.

473. Sean was sore and in extreme pain for many days, and he suffered pain each time he moved his bowels.

VIII. ADDITIONAL ALLEGATIONS REGARDING THE DIOCESE AND FATHER BRIAN

A. The Diocese's Prior Knowledge of Widespread Sexual Abuse of Children by Priests

474. Upon information and belief, prior to Father Brian's repeated sexual assaults of Sean, Bishop McGann knew or should have known of reports that priests and clergy of the Diocese, including but not limited to Father Brian, were engaging in sexual misconduct, abuses and assaults of minor children.

475. Upon information and belief, Bishop McGann did not investigate, inquire, or act to stop or report such behavior by clergy of the Diocese, including Father Brian.

476. Upon information and belief, Bishop McGann disregarded information and concerns regarding sexual contacts, abuses and assaults by Diocesan clergy, including but not limited to Father Brian, brought to his attention by parishioners, staff, members of the clergy and others.

477. Upon information and belief, and at all times herein stated, there was publicly available information from media reports and other public sources that provided Bishop McGann and prior and succeeding bishops of the Diocese sufficient notice that clergy of the Diocese were sexually abusing children of parishioners of the Diocese and that action was required to prevent and protect against further sexual abuse and assault of children.

478. Upon information and belief, such information was available to Bishop McGann before the sexual assaults perpetrated by Father Brian upon Sean.

479. Upon information and belief, before Father Brian's repeated assaults upon Sean in the Fall of 1990, the Diocese knew or should have known that numerous priests and clergy of the Diocese, including Father Brian, had been accused of sexually abusing children.

480. Upon information and belief, the Diocese sought to conceal and hide this information.

481. Upon information and belief, the Diocese did nothing to report such acts to the police, Child Protective Services, any other civil authority, or the parents of the victims of such assaults and abuse.

482. Upon information and belief, the Diocese did nothing to stop or report such acts.

483. Upon information and belief, the Diocese did nothing to punish and remove the offending priests and clergy from their ministerial duties or to obtain and require any form of treatment for such offending priests and clergy.

484. Upon information and belief, the Diocese did nothing to enforce the Canon Law against such offending priests and clergy.

485. Upon information and belief, the Diocese did nothing to enforce the civil or criminal laws against such offending priests and clergy.

486. Upon information and belief, the Diocese permitted such priests and clergy to continue functioning with all of the authority vested in them by the Diocese.

487. Upon information and belief, the Diocese knew or should have known that Father Brian was amongst the priests of the Diocese who were sexually abusing and assaulting children, prior to his assaults and abuse of Sean.

488. Upon information and belief, the Diocese did not act to stop or report Father Brian, or to protect parishioners and their children from him.

489. Upon information and belief, the Diocese did not enforce the Canon Law, the criminal law or the civil law against Father Brian.

490. Upon information and belief, the Diocese instead elevated Father Brian to the position of pastor of St. Anne's in or about November 1995.

B. Efforts by the Diocese to Cover-Up Sexual Abuse of Children by Priests, Including Father Brian

491. Upon information and belief, in or about the mid 1980's, the Diocese established an Office of Legal Affairs (the "OLA").

492. Upon information and belief, on behalf of the Diocese, Monsignor Placa ("Priest F" in the Grand Jury Report) exercised authority over the operation and function of the OLA.

493. Upon information and belief, one of the ostensible purposes of the OLA was to investigate and attend to allegations of child sexual abuse committed by priests of the Diocese.

494. Upon information and belief, from its inception in or about 1985 until 1992 the OLA provided the exclusive method within the Diocese for dealing with the criminal sexual abuse of children by priests of the Diocese.

495. Upon information and belief, no written protocols existed to guide the priests who implemented this aspect of the OLA.

496. Upon information and belief, priests of the Diocese, unofficially known as the "Intervention Team," worked on OLA cases and made substantive determinations about priests accused of child sexual abuse.

497. Upon information and belief, a primary purpose and goal of the OLA was to protect the interests of the bishop, the Diocese and individual employees of the Diocese.

498. Upon information and belief, a primary purpose and goal of the OLA was to avoid publication of information or news regarding priests in the Diocese involved in child sexual abuse.

499. Upon information and belief, OLA Intervention Team members routinely met with priest abusers and their victims.

500. Upon information and belief, the OLA Intervention Team sought to persuade victims to forego legal recourse with respect to their claims.

501. Upon information and belief, neither OLA nor the priests involved at OLA in handling and reviewing such matters of sexual abuse of children by clergy ever reported such abuse to law enforcement, parishioners or parishes where the accused clergy were assigned.

502. Upon information and belief, through such action and inaction, the Diocese, among other things, sought to prevent, hinder and delay victims from enforcing their legal rights and exposing the criminal conduct of the Diocese's clergy.

503. Upon information and belief, through such action and inaction, the Diocese provided accused clergy continual access to children and egregiously exposed those children, including Sean, to the sexual assaults they endured.

504. Upon information and belief, a primary purpose and goal of the OLA was to seek to settle claims against the Diocese and its parishes cheaply.

505. Upon information and belief, the aforesaid purposes and goals took precedence over any consideration of the Church's Canon Law and civil law duties, and its biblical and spiritual mandate to protect the children of the Church from harm.

506. Upon information and belief, in or about 1989, the Diocese established an Office for Priest Health Services ("OPHS") to, among other things, address the crime of priests engaging in sexual abuse of children.

507. Upon information and belief, OPHS also address the danger and ramifications of priests with alcohol abuse problems.

508. Upon information and belief, as OPHS would obtain information regarding the sexual abuse of children by a priest, it performed no outreach to such children or their families.

509. Upon information and belief, OPHS was instructed by the Diocese to take no action other than to refer a victim of child sexual abuse to a priest-attorney member of the OLA intervention team.

510. Upon information and belief, shortly following its creation and prior to the sexual assaults suffered by Plaintiff Sean K. Donoghue, the Diocese informed OPHS that Father Brian had been drinking with boys in his rectory rooms.

511. Upon information and belief, the Diocese did not tell OPHS about accusations of sexual misconduct by Father Brian.

512. Upon information and belief, the Diocese informed OLA and OPHS that Father Brian's drinking involved teenage boys and was occurring in his private rooms.

513. Upon information and belief, neither OPHS nor OLA conducted an inquiry or investigation into the matter.

514. Upon information and belief, OPHS discussed with Father Brian the matter of his drinking, and he agreed to attend Alcoholics Anonymous.

515. Upon information and belief, OPHS did not conduct a further investigation into the matter.

516. Upon information and belief, OPHS closed the matter, and did not follow up to ensure compliance by Father Brian.

517. Upon information and belief, the aforesaid purposes and goals took precedence over any consideration of the Church's Canon Law, and civil law duties, and its biblical and spiritual mandate to protect the children of the Church from harm.

518. Upon information and belief, OPHS failed in its Canon Law and civil law duties and its biblical and spiritual mandate to protect the children of the Church from harm.

519. Upon information and belief, when the Diocese became aware that Father Brian was continuing to drink alcohol and had sexually abused a number of boys, it did not inform OPHS.

C. Psychiatric Evaluation of Father Brian – Twenty Years Too Late

520. Upon information and belief, finally, in or about 1998, following more reports and complaints that Father Brian had sexually abused and assaulted minor children, the Diocese had Father Brian undergo psychological evaluations.

521. Upon information and belief, a team of clinicians evaluated Father Brian at or about that time.

522. Upon information and belief, Father Brian admitted to them that he had been sexually abusing and assaulting children.

523. Upon information and belief, the clinicians placed this information into a report or reports that were provided to the Diocese.

524. Upon information and belief, upon evaluating Father Brian, this team of clinicians concluded, among other things, that Father Brian was "manipulative," a "sociopath," and a "time bomb."

525. Upon information and belief, this information and conclusions were set forth in a report or reports prepared by the clinicians.

526. Upon information and belief, at or about the time this report or reports was made, it was provided to the Diocese, and the Diocese was aware of these and other conclusions made by clinicians with respect to Father Brian.

527. Upon information and belief, had the Diocese acted reasonably, it would have caused Father Brian to be evaluated by clinicians prior to his assignment to St. Anne's and prior to his assaults upon Sean.

528. Upon information and belief, had the Diocese required Father Brian to be evaluated by clinicians prior to his assignment to St. Anne's and prior to his assaults upon Sean, the team of clinicians would have reached the same conclusions and diagnosis of Father Brian that they reached in or about 1998.

529. Upon information and belief, this team of clinicians recommended, among other things, that Father Brian should have no parish assignment and that he should have no Sunday mass or Confessions assignment

530. Upon information and belief, despite these recommendations, the Diocese continued to have Father Brian perform ministerial duties in a hospital and in two separate parishes.

531. Upon information and belief, the Diocese did not inform the hospital or the pastors of the subject parishes, Father Brian's victims, or their families regarding the clinicians' recommendations and findings regarding Father Brian.

IX. GRAND JURY REPORT FINDINGS AND RECOMMENDATIONS

532. In the Grand Jury Report, the Grand Jury concluded, among other things, as follows:

Priests assigned to and working in the Diocese of Rockville Centre committed criminal acts in violation of New York State Penal Law Article 130, Sex Offenses, and other statutes designed to protect the health, safety and welfare of children. These criminal acts included, but were not limited to, Rape, Sodomy, Sexual Abuse, Endangering the Welfare of a Child and Use of a Child in a Sexual Performance. Not one priest in the Diocese who knew about these criminal acts reported them to any law enforcement agency.

Frequently, because of the nature of child sexual abuse the victims of this criminal activity do not and did not, in these cases, disclose it until they were adults. This was almost always after the statute of limitations for the criminal prosecution of these crimes had lapsed. . . .

The Grand Jury concludes that officials in the Diocese failed in their responsibility to protect children. They ignored credible complaints about the sexually abusive behaviors of priests. They failed to act on obvious warning signs of sexual abuse including instances where they were aware that priests had children in their private rooms in the rectory overnight, that priests were drinking alcohol with underage children and exposing them to pornography. Even where a priest disclosed sexually abusive behavior with children officials failed to act to remove him from the ministry.

The Grand Jury concludes that the history of the Diocese of Rockville Centre demonstrates that as an institution they are incapable of properly handling issues relating to the sexual abuse of children by priests. The Grand Jury concludes that this was more than simple incompetence. The evidence before the Grand Jury clearly demonstrates that Diocesan officials agreed to engage in conduct that resulted in the prevention, hindrance and delay in the discovery of criminal conduct by priests. They conceived and agreed to a plan using deception and intimidation to prevent victims from seeking legal solutions to their problems. This included victims who were seeking compensation for their injuries in the civil courts. There, Diocesan officials pursued aggressive legal strategies to dismiss time barred claims and improperly named parties. They insisted upon confidentiality agreements in cases that were settled. This policy put children at risk inasmuch as victims were prohibited by law from speaking out about the criminal conduct of sexually abusive priests.

Grand Jury Report, pp. 172-173.

533. The Grand Jury recommended, among other things, that the State of New York amend the Criminal Penal Law to eliminate the statute of limitations in cases involving sexual offenses against a child less than the age of eighteen, or alternatively, in light of the fact that the Church's own Code of Canon Law allowed for the commencement of actions against priests for a period of ten years after the child's eighteenth birthday, that the Penal Law be amended to extend the statute of limitations for criminal proceedings until fifteen (15) years after the child's eighteenth birthday.

534. Upon information and belief, the Grand Jury also recommended that the New York State Civil Practice Law and Rules should be amended to extend the statute of limitations in a civil action to recover money damages against a defendant based on the sexual abuse of a child.

535. At the time the Grand Jury Report was issued, Sean was twenty-five (25) years old, and, thus, his ability to have the State prosecute criminal charges or to prosecute his own civil claim for damages in New York State courts was already time-barred under then existing laws.

536. The implementation of the changes then recommended by the Grand Jury would have enabled Sean to assert claims against defendants in a court of law.

X. DIOCESE LOBBYING EFFORT OPPOSING ENACTMENT OF CHILD VICTIMS ACT AND ESTABLISHMENT OF IRCP PROGRAM

537. Upon information and belief, following the 2003 issuance of the Grand Jury Report, the Diocese spent substantial church resources in connection with its lobbying of New York State government officials to deny any relief to victims of child sexual abuse with respect to the statutes of limitation.

538. Upon information and belief, these lobbying efforts were successful during the ensuing approximately fifteen (15) year time period.

539. Upon information and belief, toward the end of this 15-year time period, as public and political pressure grew to open the statute of limitations, the Diocese established an Independent Reconciliation and Compensation Program ("IRCP") for survivors of clergy sexual abuse.

540. Upon information and belief, the IRCP program was portrayed by the Diocese as a voluntary program that would enable survivors of child sexual abuse by clergy of the Diocese to obtain monetary compensation for their permanent injuries, in

exchange for a permanent release by such claimants of any right to sue for compensation in any court.

541. Upon information and belief, in determining to enact the IRCP program, the Diocese knew that monetary settlements offered under the IRCP program would be in amounts substantially below those that could otherwise be obtained if such claimants were then able to successfully pursue or settle their civil damage claims in a court of law.

542. Upon information and belief, one of the primary reasons the Diocese enacted the IRCP program was to convince the New York State Legislature to delay and decline implementing changes to the governing statutes of limitation applicable to victims of child sexual abuse.

543. Upon information and belief, in exchange for releases executed by or on behalf of victims, the Diocese settled numerous claims with victims of child sexual abuse through the IRCP.

XI. THE DIOCESE'S PROVISION OF FINANCIAL ASSISTANCE TO SEAN AS AN ACKNOWLEDGED VICTIM OF CLERGY SEXUAL ABUSE

544. In or about April 2018, without the advice or assistance of counsel, Sean filed a claim with the IRCP program with respect to the sexual abuse and attacks he suffered at the hands of Father Brian.

545. An offer of monetary compensation was made to Sean through the program, but it did not result in settlement.

546. However, following the filing of his claim with IRCP, the Diocese Office for the Protection of Children and Young People Diocese contacted Sean.

547. The Diocese determined that Sean qualified for financial "Victim's Assistance" from the Diocese pursuant to the Diocesan Child Protection Policy (2012) Section X.

548. As a result of this determination, the Diocese has, among other things, been paying for Sean to receive professional counseling at an inpatient treatment facility.

549. By virtue of this determination, the Diocese has acknowledged that Sean is, in fact, a victim of abuse as a minor by clergy of the Diocese.

550. By virtue of this determination, the Diocese has acknowledged the veracity of the material claims Sean has made regarding the sexual abuse he suffered as a child at the hands of Father Brian.

CAUSE OF ACTION
AS AGAINST DEFENDANTS

551. Plaintiff repeats and realleges each and every allegation contained in paragraphs "1" through "550" of the complaint with the same force and effect as if fully set forth at length herein.

552. Defendants knew or should have known that Father Brian was improperly providing alcohol to minor children, was taking them back with him to his living quarters in the rectories and parishes of the Diocese, and was sexually assaulting and abusing them, prior to his sexual assaults upon Plaintiff.

553. Defendants knew or should have known, well in advance of 1990 and his sexual assaults of Plaintiff, that Father Brian did not possess the requisite skills or qualifications to interact with, work with, supervise and exercise authority over children, and that he suffered from a number of mental disorders that predisposed him to sexually assault and abuse children and that made it dangerous for children to be alone with him.

554. Defendants failed to properly supervise Father Brian's conduct and interactions with children when it was known or should have been known to the defendants that he had a propensity to sexually abuse children and, in fact, had sexually abused children, prior to his sexual assaults upon Plaintiff.

555. Defendants failed to warn or advise Plaintiff, the Plaintiff's parents and others of Father Brian's propensity to sexually abuse children, and of the fact that he

had sexually abused children whom he came in contact with by and through his roles as a priest at St. Anthony's, a priest at Good Shepherd, and a priest at St. Anne's.

556. Defendants failed to take any measures to stop or report the sexual abuse of children by Father Brian when it was known or should have been known that Father Brian's sexual abuse was continuing and ongoing, prior to his sexual assaults upon Plaintiff.

557. Defendants failed to establish adequate and effective screening, assessment and professional training and educational programs and procedures for their employees, pastors and priests, including Father Brian, calculated to prevent the sexual abuse of children, prior to Father Brian's sexual assaults upon Plaintiff.

558. Defendants failed to implement adequate and effective measures or take any steps to prevent Father Brian from sexually abusing the Plaintiff when it was known or should have been known that Father Brian had a propensity to sexually abuse children and, in fact, had sexually abused children at other parishes in the Diocese prior to sexually abusing Plaintiff.

559. Defendants failed to make appropriate assessment and inquiry into the background of Father Brian in the course of selecting, hiring, contracting, ordaining and retaining him as a priest and assigning him to work at parishes in the Diocese, when it knew or should have known that he had a propensity to sexually abuse children.

560. Defendants failed to use reasonable care to correct and remove Father Brian and instead continued to retain and assign him as a priest and authorized him to exercise authority at several parishes of the Diocese, when it was known or should

have been known that he had a propensity to sexually abuse children and, in fact, had sexually abused children and was sexually abusing children, and that continuing to retain and assign him and allow him to exercise ministerial authority would likely result in injury to others, including the Plaintiff.

561. The aforesaid occurrences were caused or contributed to by the negligence, carelessness and recklessness and the willful, wanton, and grossly negligent conduct of the defendants, their agents, servants and/or employees, in recruiting, selecting, hiring, training, assigning, contracting, retaining, promoting and supervising Father Brian as a priest and pastor of the Diocese, and their conscious indifference and utter disregard for the safety and rights of Plaintiff and others.

562. Defendants' actions and inactions prior to and after Father Brian's vicious and repeated sexual assaults upon Plaintiff were in keeping with their deliberate refusal to enforce the Canon Law, the criminal law and the civil law with respect to Father Brian and other members of its clergy who engaged in criminal sexual assaults and abuses of minor children, and were undertaken in a reckless, willful, wanton and grossly negligent manner, and with conscious indifference and utter disregard for the safety and rights of Plaintiffs and others.

563. Defendants deliberately acted to hinder, delay, cover up and keep secret any effort to investigate and enforce the law with respect to the sexual abuse of minor children by Diocese clergy brought to their attention in a reckless, willful, wanton and grossly negligent manner, and with conscious indifference and utter disregard for the safety and rights of Plaintiff and others.

564. Defendants deliberately acted to prevent reports to parishioners, the police and law enforcement authorities regarding sexual abuses of minor children by Diocese clergy in a reckless, willful, wanton and grossly negligent manner, and with conscious indifference and utter disregard for the safety and rights of Plaintiff and others.

565. By reason of the foregoing, Plaintiff sustained severe and permanent physical and psychological injuries, including but not limited to, severe emotional distress, trauma, stress, injury, humiliation, fright, dissociation, anger, depression, anxiety, alcohol dependency, drug dependency, family turmoil and loss of faith, internal injuries and has been caused to suffer physical pain, mental anguish, emotional and psychological damage, some or all of which are of a permanent and lasting nature, and Plaintiff has and/or will become obligated to expend substantial sums of money for medical and psychotherapeutic expenses.

566. By reason of the foregoing, Plaintiff has suffered more than 28 years of intense distress exemplified, among other things, by persistent psychological trauma and stress, multiple suicide attempts, multiple hospital stays, repeated terrifying nightmares, lost educational opportunities, lost jobs, lost employment opportunities, loss of income, destroyed relationships, debilitating alcoholism, drug abuse and multiple drunk driving arrests.

567. By reason of the foregoing, defendants are liable to Plaintiff for an award of compensatory damages in an amount that exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction, together with interest, costs, and disbursements.

568. By reason of the foregoing, defendants are liable to Plaintiff for an award of punitive and exemplary damages in an amount that exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

569. It is hereby alleged pursuant to CPLR 1603 that the foregoing cause of action is exempt from the operation of CPLR 1601 by reason of one or more of the exemptions provided in CPLR 1602, including but not limited to, CPLR 1602(5), 1602(7) and 1602(11).

WHEREFORE, plaintiff respectfully requests that a judgment be entered in his favor against the defendants, jointly and severally, on the cause of action as follows:

- a. Compensatory and punitive damages against the defendants Diocese of Rockville Centre, Church of St. Anthony of Padua, Church of the Good Shepherd, Church of St. Anne and Notre Dame Church, in a sum which exceeds the jurisdictional limits of the lower Courts;
- b. Interest, costs and disbursements as provided by law; and

c. Such other and further relief as the Court deems just, equitable and proper.

Dated: Melville, New York
August 8, 2019

Yours, etc.,

**HAMBURGER, MAXSON, YAFFE
& McNALLY, LLP**

Attorneys for Plaintiff



David N. Yaffe, Esq.
Douglas K. McNally, Esq.
Richard Hamburger, Esq.
225 Broadhollow Road, Suite 301E
Melville, New York 11747
631.694.2400

VERIFICATION

STATE OF NEW YORK)
) SS.:
COUNTY OF SUFFOLK)

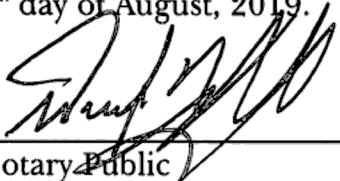
SEAN K. DONOGHUE, being duly sworn, deposes and says:

I am the plaintiff in the within action; I have read the foregoing Complaint and know the contents thereof; the same is true to my own knowledge, except as to matters therein stated to be alleged on information and belief, and as to those matters I believe it to be true.



SEAN K. DONOGHUE

Sworn to before me this
8th day of August, 2019.



Notary Public

DAVID N. YAFFE
Notary Public-State of New York
No. 01YA6213798
Qualified in New York County
Commission Expires November 16, 2021